

City of Kenmore



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City Council Special Meeting Agenda

September 20, 2021, 6 PM

VIA ZOOM - LINK: <https://us02web.zoom.us/j/88179078494>

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Or Telephone: Dial US: +1 253 215 8782

Webinar ID: 881 7907 8494

I. CALL SPECIAL MEETING TO ORDER - 6 PM

II. ROLL CALL

III. STUDY SESSION AGENDA

- A. Report and Discussion on Exceptional Trees, presented by Policy Analysis Intern Garrett Oppenheim
[Exceptional Trees Policy Report](#)
- B. Residential Tree Subsidy Programs Report and Discussion, presented by Policy Analysis Intern Garrett Oppenheim
[Residential Tree Subsidy Programs Policy Report](#)
[Tree Policy PowerPoint Presentation](#)

IV. ADJOURN SPECIAL MEETING

UPCOMING MEETINGS:

- A. September 27, 2021
October 11, 2021



City of Kenmore, Washington

Date: September 10, 2021
 To: Kenmore City Council
 From: Garrett Oppenheim, Policy Analysis Intern
 Re: Exceptional Tree Protections

I. Introduction

A. Context

At the City Council meeting on April 19, 2021, Bryan Hampson and Samantha Loyuk presented a summary of Kenmore's tree regulations including potential code amendments to further protect, preserve, and enhance Kenmore's urban forest. The presentation included a list of short-term and long-term action items, labelled List 1 and List 2.

List 1 was composed of five recommendations that could be accomplished this year, including changing the definition of "significant tree" so it includes smaller diameter at breast height (DBH) trees, revising tree retention requirements so certain "nuisance species" (i.e., cottonwood and alder) do not receive credit for retention, codifying the tree removal application process for existing single-family residences, updating the removal penalty language for consistency, and shortening the validity period for tree removal permits so replacement trees get into the ground faster.

List 2 was composed of more long-term items and consisted of increasing the tree density requirement for new development, decreasing yearly allowances for single-family tree removal, always requiring replacement of removed trees, establishing maximum floor area ratios to limit the size of single-family residences, creating a tree fund for instances where replacement is infeasible that would potentially include a tree rebate program for planting trees on single-family lots, and establishing an exceptional tree program. I was hired as an intern to research the final two items, exceptional tree ordinances and tree rebate programs, and draft policy papers on each.

B. Background

Big trees are invaluable to the environment. The big trees native to the Pacific Northwest like Douglas firs, western hemlocks, and western red cedars are the best in the world at storing carbon and they actually get better at doing it as they age and grow bigger.ⁱ In fact, some large trees seem to add "the carbon mass equivalent of an entire smaller tree each year."ⁱⁱ

Beyond helping fight climate change by removing greenhouse gases from the atmosphere and storing them, trees provide myriad benefits to our health, the environment, and society. Large trees increase property values, lower energy costs by regulating microclimates, clean local water, and even lead to better health outcomes for people.ⁱⁱⁱ And yet, despite the benefits trees, and in particular big trees, provide, the United States lost about 175,000 acres of tree cover, about 36

million trees, per year from urban and community areas between 2009 and 2014.^{iv} In that same period, Washington State lost 3,350 acres per year of urban and community tree cover.^v

To combat the decline in large trees, eleven Washington cities – Bainbridge Island, Bonney Lake, DuPont, Duvall, Lake Forest Park, Mercer Island, North Bend, Redmond, Seattle, Tacoma, and Woodway - have implemented protections for large trees, codified in exceptional tree ordinances. This report will explore, among other aspects, how these ordinances work, their commonalities and differences, and their effectiveness in preserving large trees.

While most cities refer to their protected trees as “exceptional trees,” Bainbridge Island, DuPont, and Redmond call their protected trees “landmark trees.” For the sake of simplicity, except in the Definitions section in this report, I will refer to all protected trees as “exceptional trees” irrespective of what individual cities call them.

Some cities list out species they protect when they reach a certain size while others give their city officials discretion whether to protect trees or not. Some cities apply their ordinances across the board to protect all exceptional trees in their jurisdiction while others apply only to new developments. All cities have carved out exceptions that allow for the removal of exceptional trees under certain circumstances. And some other cities rely on protection schemes called heritage tree programs that are voluntary on the part of property owners and require their consent to protect and preserve large trees.

The acronym DBH will appear multiple times within this report. It means diameter at breast height and refers to a tree’s width at four and one-half feet above the ground and is generally the place at which trees are measured to determine if their size meets the criteria for protection. The term caliper is synonymous with DBH.

C. Recommendation

It is recommended that the establishment of an exceptional tree ordinance be considered in the context of the recommendations that will come out of 1) the Climate Action Plan (CAP), which will likely produce a long list of potential new programs, and 2) the code amendment work plan dockets for future years, as discussed at the City Council’s annual retreat.

Several cities in Washington State have successfully implemented unique versions of an exceptional tree ordinance which have proven effective at preserving large trees. If Kenmore is to join these cities and enact its own exceptional tree ordinance, there are several issues that must be considered beforehand and it will take considerable staff time in the short term to do the research for and draft an exceptional tree ordinance appropriate for Kenmore.

First and foremost among those considerations is to decide what trees Kenmore wants to preserve. That can mean making a list of protected species like Seattle, DuPont, Duvall, Lake Forest Park, Mercer Island, and North Bend have done. Such a list will also require determining at what threshold sizes to protect each species. As Appendix B makes clear, different cities have chosen a variety of sizes at which to begin protections; for example, in Seattle and Mercer Island, an Oregon white oak with a six-inch DBH is an exceptional tree but in DuPont its DBH must be 24 inches to be protected and in no other city does it even warrant exceptional status. If Kenmore

wants to protect all large trees it can emulate Bonney Lake and Redmond where all trees with a DBH greater than 30 inches are exceptional, but that protection might miss some species whose specimens never reach that size and other cities protect at much smaller diameters, such as the Madrone and Pacific yew. Kenmore could also choose to follow the model set by Woodway and leave it to the discretion of city staff whether or not a particular tree is deserving of exceptional status but that of course leaves to fate whether the staff are tree-loving conservationists, heavily in favor of development, or somewhere else on the spectrum.

Once it has been established what trees to protect, the City must determine what protection means. The protection may simply prioritize exceptional trees for retention on development sites or it may bar their removal entirely. It can go even farther than that, emulating Bonney Lake's prevention of any harm at all that might injure or deface an exceptional tree.

The Council will have to decide further what exceptions will apply. Current regulations allow Kenmore residents to remove two or more large trees from their property, based on its size, and can either remain in place or be modified so that only significant trees that are not also exceptional trees may be removed. The ordinance could be applicable only to new developments to prohibit clear-cutting. Other common exceptions allow for removal of hazardous, dead, and dying exceptional trees and reasonable economic use of property, though they vary in the details. Where it provides for exceptions, the Council will further have to determine whether to require the planting of replacement trees, and if so, how many.

Suitable penalties must be established for violations of the ordinance. These can range from forcing the violator to plant replacement trees to fines that can be either consistent per violation or equal the appraised value of the removed tree.

Finally, the Council must acknowledge that the local context may result in unintended consequences that could force it to reevaluate the ordinance, its effectiveness, and its impact on both development and local livelihoods.

It is important to understand that an exceptional tree ordinance is not a panacea that, once implemented, prevents any big trees from coming down. Cities that have such ordinances in place already still see the removal of large trees. It is one tool in the regulatory toolbox but it is not a perfect one. Other tools in the toolbox include the actions on List 1 that will be implemented this Fall and they may well prove effective on their own and forego the need for an exceptional tree ordinance.

II. Current Kenmore Tree Protections

Kenmore's current tree regulations do not grant extra protection to large trees. The Code defines "significant trees" at KMC 18.20.2730 as "an existing healthy tree that is not a hazard tree (i.e., a tree that does not have a high probability of imminently falling due to a debilitating disease or structural defect) and that, when measured four and one-half feet above grade, has a minimum diameter of:

- A. Eight inches for evergreen trees; or
- B. Twelve inches for deciduous trees."

KMC 15.25.070 permits Kenmore property owners to remove significant trees from property containing a single family residence based on the size of the property so long as the trees to be removed are not located in a critical area, shoreline, buffer, native growth area, or wildlife protection zone and have not been previously designated for protection. The owner of a typical single family lot, up to 10,000 square feet, can remove two significant trees per year without a permit.

Table 1

Single Family Residence Lot Size	Number of Significant Trees That Can Be Removed Each Year Without a Permit
Up to 10,000 sq. ft.	2
10,001 – 20,000 sq. ft.	4
20,001 – 30,000 sq. ft.	6
More than 30,000 sq. ft.	8

Source: Kenmore Municipal Code 15.25.070(B)(2)

In terms of development, KMC 18.57.060 requires a minimum tree density of 30 tree units per acre of buildable area, to be made up of either existing trees already present on the land, replacement trees, or a combination of the two. Tree units are not equivalent to trees but are determined based on conversions found in KMC Table 18.57.060A. The City works with developers through all stages of development and construction to ensure the retention and protection of sufficient trees, but for a number of reasons, many, and in some cases, all trees are removed from development sites. Trees may be removed because the space they occupy is needed for roadways, sidewalks, drainage areas, fire access, utilities, or building setbacks. They may be removed because they are not viable. They may be removed because the size or shape of the lot would prevent construction if they remained. Oftentimes, even after replacement trees have been planted, developed sites look like there are no trees present because the replacement trees are often much smaller or are located in backyards, hidden from public view.

III. Defining Exceptional Trees

Eleven cities in Washington do grant additional protection to certain trees, usually based on their size. Most of the ten protect only specific species that have reached threshold sizes while others do not differentiate and protect all trees of a certain size. One city provides for subjective protection at the discretion of its Director of Public Works and a final city limits its protection to trees in specific environmentally important areas.

A. Specific Species Protected

Bainbridge Island, DuPont, Duvall, Lake Forest Park, Mercer Island, North Bend, and Seattle all have lists of tree species that become exceptional when they reach a specified size, noted as a diameter at breast height (DBH), 4.5 feet above the ground. For a list of all protected species and the threshold sizes required for protection, see Section XVI.

1. Bainbridge Island

Bainbridge Island calls the trees it protects “landmark trees,” defined at Bainbridge Island Municipal Code 16.32.010(C) as “trees, located on Bainbridge Island, that are unique because of their age, size, species, historical significance, or aesthetic quality and meet the criteria.” Those

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criteria are found at BIMC 16.32.020 in a table listing protected tree species and the threshold sizes for protection. So long as a tree meets the size requirements, the city considers them landmark trees, whether they meet any of the more subjective criteria or not.

2. DuPont

DuPont protects what it terms “landmark trees,” defined at Section 25.10.120.005 of the DuPont Municipal Code as healthy, well-formed specimens of seven tree species – Oregon white oak, Pacific yew, madrona, Douglas fir, western red cedar, western hemlock, and big leaf maple – that have reached specified threshold sizes.

3. Duvall, Lake Forest Park, and North Bend

Duvall, Lake Forest Park, and North Bend use identical language to define exceptional trees: viable trees worthy of long-term retention due to a “unique combination of size and species, age, location, and health.” (The respective definitions are found at DMC 14.40.120, LFPMC 16.14.030, and NBMC 19.10.020). The criteria trees must meet are also identical, but for the language directing the reader to the location in the Code where protected species are found.

The tree must exhibit healthful vigor, not be a significant risk to utilities and structures, have no visual structural defects that cannot be mitigated, and “be expected to remain viable with reasonable and prudent management and care.”

Duvall protects 21 native western Washington species, selected by a committee of tree experts based on what other jurisdictions had protected and the best available science (DMC Table 14.40.120.1). Lake Forest Park protects seven species at LFPMC 16.14.030 Table 1.

Based on consultation with an arborist, North Bend protects nine species (NBMC 19.10.020(22)) and has an added provision that protects homestead trees planted many years ago that the city arborist determines to be unique in character, size, or form (NBMC 19.10.020(22)(f)).

4. Mercer Island

Mercer Island’s definition of exceptional trees is found at MIMC 19.16.010: “A tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource. An exceptional tree is a tree that is rare or exceptional by virtue of its size, species, condition, cultural/historic importance, age, and/or contribution as part of a tree grove. Trees with a diameter of more than 36 inches, or with a diameter that is equal to or greater than the diameter listed in the Exceptional Tree Table, are considered exceptional trees[.]” The table lists 23 protected native species of trees and 45 non-native species with threshold diameters at breast height ranging from 6 inches to 30 inches depending on species (MIMC 19.16.010).

5. Seattle

Director’s Rule 16-2008 clarified the definition of exceptional trees found at **Seattle** Municipal Code 25.11.020, “a tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is deemed as such by the Director according to standards promulgated by the Seattle Department of Construction and Inspections.” The Rule contains a table of dozens of native and non-native tree species and their

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associated threshold sizes required to be classified as exceptional, ranging from as small as six inches to as large as two and a half feet

B. All Large Trees Protected

1. Bonney Lake

The **Bonney Lake** Municipal Code defines exceptional trees located at Section 16.60.030(F)(10) as any tree with a DBH of 30 inches or greater, although it specifically excludes fast-growing and easily replaceable cottonwoods and alders unless they are found in a critical area. While the ordinance does not name them, its intent is to protect large specimens of three species of slow-growing, difficult to replace trees that predominate in undeveloped areas: Douglas firs, big leaf maples, and red leaf cedars.

2. Redmond

Redmond does not protect any specific species, choosing to define what its Code calls “landmark trees” at RMC 20A.20.120 as healthy trees with DBH over thirty inches or any particularly impressive or unusual tree in terms of “size, shape, age, historical significance or any other trait that epitomizes the character of the species.”

C. Discretion of City Officials

1. Woodway

Woodway defines an exceptional tree at WMC 16.12.020 as one that the Director of Public Works has determined worthy of long-term retention because it has a “unique combination of size, species, age, location, and health.” Under the Woodway definition, no specific species are protected, but rather the Director has discretion to deem any tree exceptional except for five enumerated species: red alders, laurel trees, English holly, Leyland cypress, and non-native cultivated fruit trees (WMC 16.12.050(A)).

Woodway decided not to protect specific species at threshold sizes like some cities do in order to save staff time. The discretion granted to the Director prevents the three staff members – the Director and two other Public Works employees – from having to go into the field to measure every single potential exceptional tree to determine what must be preserved; instead, the Director need only look at them and decide in his or her discretion whether they are exceptional trees or not.

D. Exceptional Trees Protected in Biodiversity Areas Only

1. Tacoma

Generally speaking, **Tacoma** does not protect exceptional trees, but in the Critical Areas Preservation section of its Code, implemented on June 26, 2018, the city does protect them in biodiversity areas and corridors. For the purposes of Tacoma’s municipal code, a biodiversity area, defined at TMC 13.01.110.B, is one containing diverse native vegetation composed of a “mosaic of habitats and microhabitats” and “areas with rare or uncommon plant species and associations designated by the City or identified by Federal and State agencies such as the Department of Natural Resources Heritage Program.” Biodiversity corridors, defined in the same chapter, are “relatively undisturbed and unbroken tracts of vegetation that connect Biodiversity Areas, other Priority Habitat and Critical Areas, including shorelines and serve to protect those areas and allow movement of common urban species.” TMC 13.11.510(B)(1)(b) requires a

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minimum size of two acres for a biodiversity area and states that the only areas that cannot be classified as such are those “already developed with legally established, pre-existing uses which serve to eliminate or greatly reduce the propensity of wildlife to use the area as habitat or a corridor.” As such, a biodiversity area can include residential properties.

TMC 13.11.550(E)(1)(c) specifically protects exceptional trees within or affecting biodiversity areas and corridors with an explicit command to “retain exceptional trees,” noting that all “Conifers and Madrone are considered exceptional trees.” TMC 13.11.550(E)(1)(c)(2) further defines exceptional trees as those constituting an important community resource due to unique historical, ecological, or aesthetic value, allowing for trees other than conifers and madrone to be designated exceptional.

IV. Protection Granted

In many cities, the protection granted prohibits removal of exceptional trees, although exceptions, which will be detailed later in Section VI, are always provided for. **Bainbridge Island** bars the removal of exceptional trees by any “person, corporation, or other legal entity” without approval from the planning director, which will be explored in Section VI below (BIMC 16.32.030(A)). **Duvall** Municipal Code 14.40.025 and **North Bend** Municipal Code 19.10.093(E) state that “removal of exceptional trees shall not be allowed, except in [limited] circumstances.” **Lake Forest Park** Municipal Code 16.14.060(B) says that “Removal of viable exceptional trees [...] is prohibited.” **Redmond** Municipal Code 20D.80.20-070(3)(c) proclaims that “[Exceptional]¹ trees shall not be removed unless an exception has been applied for and granted.” **Seattle** Municipal Code 25.11.040(A)(2-3) prohibits, subject to exceptions in the preceding chapter, removal of exceptional trees on undeveloped lots and lots in areas with specific zoning requirements.

The protections granted to trees by these ordinances can extend beyond merely preventing removal. In **Bonney Lake**, BLMC 16.64.020(A) prevents anything that destroys, injures, or defaces exceptional trees, including pouring toxic material near them, posting signs on them, burning near their bases, and cutting their bark or branches.

Not all cities’ exceptional tree ordinances offer such strongly-worded protections. **Mercer Island** prioritizes exceptional trees for protection (MIMC 19.10.010(C)(2), 19.10.060(A)(2)(b)(ii)(a)). The protection provisions in **Woodway** do not allow removal of exceptional trees for routine property maintenance (WMC 16.12.150(E)(4)) or for development (WMC 16.12.170(I)(2)(e)) without a resolution by agreement or a tree management plan, both of which will be discussed in Section VI under Permits. The protection granted to exceptional trees in **Tacoma**, found at TMC 13.11.550(E)(1)(c), applies only to trees located in biodiversity areas and merely reads “Retain exceptional trees.”

V. Application

Cities differ with regard to whether their exceptional tree ordinances are applicable to everyone in the municipality or only to new developments. Most cities apply the ordinance to homeowners and developers but some cities allow homeowners to remove exceptional trees from their property,

¹ Redmond calls such trees “landmark trees” in its Code.

A. Universal Application

Bainbridge Island applies its ordinance to all property owners but also has regulations similar to Kenmore's that allow for homeowners with properties up to an acre in size to remove up to three significant trees each year without a permit. Exceptional trees cannot be removed but the city is aware that homeowners may inadvertently remove an exceptional tree under these provisions.

Bonney Lake makes its ordinance applicable to both homeowners and developers but provides an exception for homeowners to remove an exceptional tree that has become a hazard without a permit if a certified arborist provides a report that the tree is of "high" or "extreme high" risk and no mitigation methods will alleviate that risk.

By the letter of the law, the exceptional tree ordinance in **DuPont** applies only to new development projects (DMC 25.120.020) but, according to the city's community development director who administers the ordinance, it is also applicable to homeowners because they must go through the permitting process to remove trees and are held to the standards of the ordinance.

Lake Forest Park requires a Major Trees Permit to remove any tree with a DBH greater than 24 inches. Upon application for the permit, city staff visit the site to inspect the tree and, if it is an exceptional tree, the city denies the permit. It is also possible in Lake Forest Park for one resident to report another to the city for illegal cutting, instigating an immediate investigation and potential penalties.

Redmond, Seattle, and Woodway protect exceptional trees across the board from removal by both homeowners and developers. **Tacoma** likewise protects against removal so long as the tree is located in a biodiversity area or corridor.

B. Different Standards for Homeowners and Developers

There has not yet been an instance of an exceptional tree removal in **Duvall** since implementation of the ordinance but the city would hold developers and homeowners to different standards. A developer found removing an exceptional tree would face a fine but only mitigation would be required of a homeowner.

Mercer Island requires homeowners to get permits to remove trees with a DBH greater than ten inches and allows homeowners to remove exceptional trees from their property. While there is no limit to the number a homeowner may remove, there are mitigation requirements that can make removal prohibitive; each exceptional tree must either be replaced by six new trees or, if there is insufficient room on the property to meet replacement requirements, the property owner must make a payment in lieu under MIMC 19.10.070(C). In critical areas, exceptional trees can only be removed if they are hazardous.

Developers in Mercer Island, on the other hand, must preserve all exceptional trees with a DBH greater than 24 inches under MIMC 19.10.060(3) and commission an arborist's report to verify that the root system is not negatively impacted. Further protection of trees is granted by means of the development permit application review looking at the preceding five years for tree removal and the permit preventing it for five years after development.

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Homeowners in **North Bend** have a categorical exemption in NBMC 19.10.040(B)(5) to remove up to ten trees per year from their property without a permit with only two limitations, trees in a designated native growth easement or within 150 feet of a critical area cannot be removed. As such, the exceptional tree ordinance there is applicable only to developers.

VI. Exceptions and Mitigation

No jurisdiction has a complete ban on the removal of exceptional trees. The various exceptions provided for include reasonable use of property, hazardous trees, access, subdivisions, protection of other exceptional trees, and permit systems. In most instances for which exceptions are made, mitigation is required in the form of planting replacement trees.

This section will not explore cities that do not apply their ordinances to homeowners because those were detailed in Section V above.

A. Exceptions

1. Reasonable Use

When a State eliminates all economically valuable use of land it engages in a “taking” of property and must compensate the land’s owner.^{vi} As such, cities provide exceptions to their bans on removing exceptional trees when preservation would deny any reasonable use of the property.

The first exception for which the **Bainbridge Island** planning director shall approve a request to remove an exceptional tree is that “removal is necessary to enable construction on or reasonable use of the property, and no other alternative is feasible” (BIMC 16.32.030(D)(1)).

Duvall at DMC 14.40.025(A)(4) and **North Bend** at NBMC 19.10.093(E)(1)(d) use the exact same language to say that exceptional trees can be removed in instances where the property owner can show the infeasibility of all on-site alternative designs that would result in less impact to the exceptional trees, including reduction in “size, scope, configuration, or density.”

In cases where “application of [the exceptional tree ordinance] will prevent any reasonable economic use of the owner’s property” **Lake Forest Park**, LFPMC 16.14.100(A) allows the property owner to apply to the planning department to be exempted from the ordinance’s requirements. LFPMC 16.14.100(C) lays out the criteria for receiving an exemption: following the ordinance would “deny all reasonable economic use of the property,” no other reasonable use exists that would have less impact, and the proposed development “is the minimum necessary to allow for reasonable economic use of the property.”

Tacoma grants a reasonable use exception at TMC 13.11.240(B) when application of the code’s preservation standards would “deny all reasonable economic use of the property.” Even under circumstances where no other reasonable economic use exists, subsection (3) requires the development “will be mitigated to the maximum practical extent and result in minimum feasible alteration or impairment of functional characteristics of the site.” In practice, this means the first goal is to avoid impact in critical areas, but where that is impossible, the goal becomes to minimize damage and mitigate what’s done through tree replacement.

Mercer Island, at MIMC 19.10.060(A)(3)(b) is less explicit about the reasoning behind the exception but allows removal of exceptional trees when retaining them would limit the constructable area to less than 85% of the maximum, as defined elsewhere in the Code. **Seattle** utilizes a similar mechanism to allow for the removal of exceptional trees from residential small lots at SMC 25.11.060(A)(1)(a) where the maximum allowable lot coverage cannot be achieved without extending into the tree's protected area and SMC 25.11.060(A)(1)(b) where retention of an exceptional tree would result in part of a house being less than fifteen feet wide, and in lowrise zones at SMC 25.11.070(A)(2) if retention would prevent reaching a certain floor area.

At RMC 20D.80.20-090, **Redmond** lays out the criteria that must be addressed in a property owner's application in order to be allowed to remove exceptional trees. Those criteria, found in subsections (1)(a)(i-ii), are that either special circumstances exist with regard "to the size, shape, topography, location, or surroundings of the subject property" or strict adherence to the ordinance would "jeopardize reasonable use of property."

2. Hazardous, Dead, and Dying Trees

Every city, with one possible exception, allows for exceptional trees to be removed if they are hazardous, dead, or dying.² There is some variation between cities with regard to how the exception is written, whether as part of the definition of an exceptional tree or as a distinct provision, the process for hazardous tree removal, the definition of the term "hazard," and what must be left behind.

At BIMC 16.32.030(D)(3), **Bainbridge Island's** planning director may allow for removal of exceptional trees that are "diseased, or otherwise determined to be a hazardous tree as determined by a qualified professional."

Part of the definition of an exceptional tree in **Duvall**, **Lake Forest Park**, and **North Bend** (see DMC 14.40.120, LFPMC 16.14.030, NBMC 19.10.020(22)(c)) is that the tree must be viable and "not be considered a significant risk in regard to existing utilities and structures as evaluated per the tree risk assessment[.]"

Most cities require that before removing a potentially hazardous tree, the city must provide written authorization (see, for instance, **Bonney Lake** Municipal Code 16.64.040(A); **DuPont** Municipal Code 25.120.030(8); **Duvall** Municipal Code 14.40.025(A)(1) referring to 14.40.110(A); **Seattle** Director's Rule 16-2008; and **Tacoma** Municipal Code 13.11.210(B)(11)) while others like **Woodway** allow immediate removal but require an application for a removal permit after the fact with proof that failure of the tree was likely imminent (Woodway Municipal Code 16.12.130(A) and 16.12.130(D)).

Cities take different approaches to defining what makes a tree hazardous. **Mercer Island** defines the term "hazardous tree" at MIMC 19.16.010 by referring to the rating system of the

² At RMC 20D.80.20-030(1) Redmond provides for the removal of significant trees that are "an immediate threat to public health, safety, or welfare" but at 20D.80.20-070(3)(c) clearly states that "Landmark trees shall not be removed unless an exception has been applied for and granted." None of the exceptions enumerated in RMC 20D.80.20 relate to trees being hazardous.

International Society of Arboricultural Hazard Tree Analysis for Urban Areas. **North Bend**, on the other hand, defines a “hazard tree” at NBMC 19.10.020(26) as a tree with a disease or defect that gives it “a high probability of failure.” **Seattle’s** Director’s Rule talks of allowing qualified professionals to make the determination. **Dupont** does not define the term at all.

In critical areas, **Bonney Lake** at BLMC 16.64.040 and **Tacoma** at TMC 13.11.210(B)(11) require that the cut pieces of the removed hazardous tree be left on site as wildlife habitat.

3. Access

Bainbridge Island will allow for an exceptional tree to be removed upon application under BIMC 16.32.030(D)/(2) if “removal is necessary to fulfill the terms of an easement or covenant recorded prior to the adoption of the” exceptional tree ordinance. The city would not allow for the creation of an easement today that contained exceptional trees, but would instead require finding a reasonable alternative.

Duvall and **North Bend** both grant an exception to remove exceptional trees where necessary to access developments. The provisions, found at DMC 14.40.025(3) and NBMC 19.10.093(E)(c) share language with regard to this exception. Both provide that where there are no other feasible alternatives, exceptional trees can be removed to provide access to private development sites. They both require that alternatives “shall be pursued to the maximum extent feasible.”

Duvall provides for an additional access-related exception at DMC 14.40.025(A)(2) where it is necessary to remove exceptional trees “necessary for public roads and bridges within existing public right of ways and other essential public facilities.” **DuPont**, likewise allows up to 30% of Oregon white oaks and up to 50% of all other exceptional trees to be removed to install a street right of way that is “integral to a neighborhood and cannot reasonable be moved,” at DMC 25.120.030(2).

4. Residential Lot Subdivisions

Bonney Lake at BLMC 16.64.070(D)(2) and **Mercer Island** at MIMC 19.10.060(A)(3)(c) provide for an exception to allow for removing an exceptional tree if retaining it would prevent creating a lot via subdivision, provided that the subdivision is otherwise allowed for in the Code.

5. Permits

Woodway has devised a unique permit system to allow property owners limited control over removing exceptional trees. WMC 16.12.150(E)(4) defines how many trees may be removed from a property each year depending on zoning and also states that exceptional trees can only be removed under an approved Resolution by Agreement or Tree Management Plan, two programs explained in greater detail in WMC 16.12.180 and 16.12.190.

First, the Resolution by Agreement, as described in WMC 16.12.180(A)(3), allows a property owner to enter into an agreement with the Director of Public Works to remove one exceptional tree every five years. While the Director has no discretion whether to enter a Resolution by Agreement with a property owner, in order to remove a single exceptional tree, the property owner must replace it with five trees similar in growth rate and canopy cover that must remain healthy and viable for a period of five years.

The limit of one such tree in a five-year period can only be exceeded by the second exception, the much more burdensome Tree Management Plan, explained at WMC 16.12.190(B). A Tree Management Plan is more burdensome to the property owner because the Director has more discretion to make additional demands on him or her such as requiring more replacement trees that remain healthy and viable for a longer period or altering construction plans to build on a less sensitive area of a lot. Additionally, the Director has the discretion whether to permit the Tree Management Plan at all. In general, most property owners considering a Tree Management Plan as an option to remove more than one exceptional tree rethink it and stick to a Resolution by Agreement that allows one removal per five years.

6. Protecting Other Exceptional Trees

DMC 25.120.040(8) in **DuPont** requires that Douglas firs be removed in some instances to ensure the survival of oaks, to which the ordinance grants special protections.

B. Mitigation

In general, when cities provide exceptions that allow for the removal of exceptional trees, they require replacement and oftentimes the replacement requirements are significant.

Bonney Lake imposes a draconian 9:1 replacement ratio on those who remove exceptional trees, under BLMC 16.64.080(A). BLMC 16.64.040(G) allows for a reduced 4.5:1 replacement ratio if the removed tree was a hazard tree.

Under MIMC 19.10.070, **Mercer Island** requires replacement at a burdensome rate of six new trees for every exceptional tree that is removed.

As detailed above in the discussion about permits, **Woodway** requires five replacement trees that must remain viable for five years under a Resolution by Agreement for removing a single exceptional tree and the Director of Public Works has discretion to demand more replacement trees and a longer viability period under a Tree Management Plan.

Lake Forest Park, at LFPMC 16.14.100(D), and **Duvall**, at DMC 14.40.025(B), both require replacement at a rate of three trees for every exceptional tree removed.

Redmond at RMC 20D.80.20-090(1)(c) requires replacement in accordance with the Tree Replacement provisions found at RMC 20D.80.20-080(1) and (5), namely that all significant trees removed must be replaced at a 1:1 ratio by two-and-one-half-inch caliper deciduous trees or evergreen trees six to eight feet tall.³ If the reasonable use exception grants the property owner the right to retain less than 35% of the standard, RMC 20D.80.20-090(b) requires replanting three replacement trees per exceptional tree removed.

³ Based on the definitions present in the Redmond Municipal Code, all exceptional trees are significant trees. RMC 20A.20.190 defines significant trees as healthy trees with a DBH of six inches or more. RMC 20A.20.120 defines exceptional trees ("landmark trees" in their terms) as a "healthy tree over thirty inches in diameter" or any particularly impressive or unusual tree in terms of "size, shape, age, historical significance or any other trait that epitomizes the character of the species." As such, exceptional trees are significant trees with greater protections.

Seattle requires at SMC 25.11.090 that every exceptional tree with a DBH over two feet that is removed be replaced by at least one new tree whose size and species must be approved by the City with the expectation that when the tree is mature the canopy will be at least equal to what existed before.

Bainbridge Island requires mitigation at BIMC 16.32.030(E) only when exceptional trees are removed to enable reasonable use of the property. The replanting requirements, found at BIMC 16.32.030(E)(1-2), provide for multiplying the DBH of the removed trees by one-half and planting sufficient replacement trees such that the sum of their combined calipers equals or exceeds that figure. Alternatively, BIMC 16.32.030(F) allows for planting three replacement trees and paying into the Bainbridge Island tree fund \$500 per inch of replacement inch unaccounted for by the replacement trees.

Only a removed street tree must be replaced in **DuPont**, according to DMC 25.120.030(8).

When the removed exceptional trees are hazardous, the replacement requirements differ. Some cities require replacement of hazardous trees (see, for instance, **Duvall** Municipal Code 14.40.110(A)), whereas others may waive the replacement requirement entirely or in specific areas (see, for instance, **Seattle** Municipal Code 25.11.090(B) for an example of the former and **Woodway** Municipal Code 16.12.130(E) for the latter).

VII. Administration

A. Inventories of Exceptional Trees

Very few of the cities who have implemented exceptional tree ordinances maintain inventories or lists of all of the trees in their jurisdictions that meet the criteria for that designation. Most cities only learn about the existence of such trees upon the submission of development plans or tree removal permit applications which require property owners to disclose the trees that would be affected by development or removal. In North Bend, where the exceptional tree ordinance has been on the books since 2018, not a single exceptional tree has been discovered in the submission for property to be developed. Mercer Island keeps track of exceptional trees found in development applications, but there is no formal inventory. Bainbridge Island does not currently maintain an inventory of its exceptional trees but has plans to perhaps create one in the future.

The only cities that do maintain complete inventories of the exceptional trees in their municipalities are Dupont and Seattle.

1. **DuPont** made its initial inventory of exceptional trees about twenty years ago when Weyerhaeuser started its development there but it only tracks exceptional trees on public property and finds out about those on public property like other cities, when residents apply for tree removal permits.

2. **Seattle's** Department of Construction and Inspections includes a team of GIS Analysts who use ARCPro GIS to track all trees on private property in the city with a DBH of six inches or greater. Seattle tracks internally all trees that have been preserved, removed, and planted as part of mitigation and expects to make that information available to the public in the near future.

B. Staff Time

Staff resources are required to administer exceptional tree ordinances in every city that has implemented them. There is a large cost in staff time up front in researching and writing the ordinances. Administrators talked about having to spend time consulting with arborists to determine what tree species to protect and what the appropriate sizes would be. They spent significant amounts of time researching the ordinances other cities had passed before them to determine what would work for them and what would not. The administrator of **Ridgefield's** heritage tree ordinance estimated that it took at least 40 hours of staff time to set up and draft their ordinance, one that, as will be described below in Section XII, has not even been as effective as the drafters had hoped. In **Woodway**, it took three months of full time work to develop and craft the ordinance before taking it to their City Council.

Once the ordinance is up and running, the amount of time can vary. If the ordinance does not change the regulations very much then it will not take much time to administer, but if it does not change the Code much one must wonder why it was enacted. Where the ordinance does change the regulations significantly it can add an hour or more to the duties of staff each week in reviewing development proposals and permit applications.

VIII. Effectiveness

Every city that has implemented an exceptional tree ordinance has done so with similar goals in mind, namely, maintaining and increasing the tree canopy and preserving large trees. Subsidiary goals include preventing clearcutting by developers, increasing home values, and preserving the sylvan northwest characteristics of the region.

As many cities have implemented their exceptional tree ordinances in the last five years it remains too soon to say whether they have been effective in protecting more trees than they were beforehand and it will take further tree canopy analysis to make that determination. Such is the case in **Bonney Lake** and **North Bend**. **Duvall**, likewise, enacted their ordinance too recently to be certain of its success but typical five-acre development sites always turn up exceptional trees and the development plans that have been submitted since it took effect have shown that more trees are being preserved that would not have been previously.

Bainbridge Island is already looking at revisions to its exceptional tree ordinance only three years after implementation so it is likely falling short of the standard of effectiveness for which its original drafters had hoped.

Those cities who maintain that the exceptional tree ordinance has been an effective tool to preserve large trees and increase canopy include **DuPont**, **Lake Forest Park**, **Tacoma**, and **Woodway**.

IX. Development

A. Impact

Most cities report that the exceptional tree ordinances have had little to no negative impacts on development.

Duvall and **Woodway** have seen no negative impact on development. In **Lake Forest Park**, the decision to increase the size threshold for a tree to be protected compared to those used in Seattle prevented the ordinance from having a negative impact on development in the city.⁴ A city arborist in **North Bend** verifies all developers' tree plans to ensure no exceptional trees go unreported but none have yet been recorded on development sites there since its ordinance was implemented in 2018. It is possible that no exceptional trees have appeared on development sites in North Bend because in the wake of the ordinance being implemented developers have begun examining land more closely in advance to build only where there are no protected trees that they must retain.

Mercer Island saw a short-term negative impact on development in the wake of the ordinance's implementation but once developers figured out how to work with the new ordinance, they returned and development has increased over where it was prior to the enactment late in 2017.

Bainbridge Island has not had any slowdown in the submissions of building applications since implementing its exceptional tree ordinance and is unaware of any negative impacts the ordinance could have had on development.

Other cities such as **Redmond** and **Seattle** have not tracked whether the ordinance has impacted the development rate. Development in Redmond has remained strong. Too many other factors influence development in Seattle to say whether the exceptional tree protections have any impact on development, but many developers avoid lots with exceptional trees in low-density zones because they may require the investment of substantial amounts of money only to find out whether they can develop the site as they have planned, suggesting that there may be fewer development sites available than would be without the ordinance.

In **Bonney Lake**, where the exceptional tree ordinance was implemented in 2020, most of the development projects the city is working on were already submitted before enactment so it is too soon to say whether there will be any impacts from the exceptional tree ordinance.

Tacoma acknowledges that exceptional tree protection in biodiversity areas has made development more difficult in some instances such as when subdivisions of existing properties can be prevented when the new lot would not be developable due to the presence of biodiversity areas. Despite the impact on development, this was an intended consequence of the ordinance as the city intended to preserve biodiversity at the expense of some development.

B. Credits

A second aspect to development is that two cities, Bonney Lake and North Bend, give developers extra credit toward the minimum required tree credits for retaining exceptional trees. In **Bonney Lake**, BLMC 16.64.080(C) equates a single retained exceptional tree with four tree replacement credits. **North Bend** bases the credit for retained trees on their DBH and all retained exceptional trees count for 150% of a non-exceptional tree of the same size (NBMC Table 19.10.092-2).

⁴ See Appendix B, Section XVI, to compare size thresholds for protected trees.

X. Penalties

The penalties for illegally removing exceptional trees include replanting requirements and fines with some cities punishing malicious or willful violations more harshly than accidental violations.

A. Mitigation

In **Bonney Lake** the penalty for cutting down an exceptional tree, found in BLMC 16.64.080(A) is to plant nine replacement trees, each with a minimum two-inch caliper. BLMC 16.64.080(J) provides for an in lieu mechanism whereby a violator can pay money to the city's tree fund if they do not have room to plant all of the required replacement trees.

DuPont works with violators to mitigate the harm done by removing a tree but does not have any codified mitigation scheme.

In **Tacoma**, the penalty for removal of exceptional trees in biodiversity areas is mitigation in the form of planting replacement trees.

In **Duvall**, a homeowner who illegally removed an exceptional tree would face only mitigation requirements such as replanting replacement trees.

B. Fines

Unlike homeowners who must only mitigate the harm caused, a developer who removes exceptional trees in **Duvall** is subject to a fine based on an appraisal of the removed tree that is done after the removal.

The penalty for illegally removing an exceptional tree in **Lake Forest Park** is a fine in the amount of the tree's appraised value.

Woodway imposes a \$1,000 fine for illegally removing an exceptional tree, and, if the violation is done knowingly and willfully, it adds a fine not to exceed the appraised value of the tree.

Mercer Island and **North Bend**, as stated above in Section V.B, apply their ordinances primarily to developers only, but both provide stiff penalties to developers who violate the Code. At MIMC 19.10.160(B), Mercer Island provides for up to triple the value of a damaged or removed tree. North Bend has instituted a \$10,000 per violation penalty for removing exceptional trees found on development sites based on NBMC 19.10.140(B) which gives the city arborist discretion to charge for removal of protected trees.

Bainbridge Island imposes a fine of \$25,000 in addition to standard civil penalties for each exceptional tree removed without approval (BIMC 16.32.060(B)).

C. Both Mitigation and a Fine

Redmond penalizes those who illegally remove exceptional trees with both a fine up to \$3,000 and a requirement to replace the removed tree with three new trees (RMC 20D.80.20-130(2)).

SMC 15.11.100(I-J) provide for civil penalties for violations of **Seattle's** Tree Protection Code. SMC 15.11.100(I)(1) sets the fine for removing an exceptional tree at the tree's appraised value and allows for triple damages if the violation is willful or malicious. SMC 15.11.100(J) requires, in addition to the aforementioned fine, restoration of the damaged area to its pre-violation state.

XI. Unintended Consequences

Cities reported a handful of unintended consequences that have arisen related to their exceptional tree ordinances. Some unintended consequences arose from local context and others the way their particular ordinance was written.

In September 2020, wildfires forced parts of **Bonney Lake** to evacuate to safety.^{vii} The city's close proximity to wildfire danger means that protecting trees very close to houses can leave them vulnerable to fire so the ordinance is likely to be reconsidered in the near future with regard to this aspect.

In **Duvall** there may be unintended consequences in the form of

- unnecessary economic harm to developers,
- issues with meeting minimum density requirements, and
- conflicts with critical root zone ordinance requirements.

According to my source at Duvall, developers have been harmed economically in instances when poorly done arborist evaluations have resulted in preservation of trees that should not be classified as exceptional and they consequently lost useable land.

My source at Duvall believes that with regard to density requirements, Duvall's exceptional tree ordinance has pushed developers of subdivision projects to meet only the minimum required, thus preventing achievement of maximum densities allowed by zone.

Finally, exceptional trees can have massive critical root zones and depending on whether Code requirements allow for any activity in that area, it may limit how much land can be developed.

XII. Heritage Tree Protections

Another common protection scheme for large trees is heritage tree protection. Seattle defines a heritage tree as one that it is an exceptional specimen in terms of size, rarity, or beauty, has an association with a significant historical person or event, or is a community landmark.^{viii}

Vancouver utilizes similar criteria for deciding if nominated trees should be designated as heritage trees, as found in Vancouver Municipal Code 20.770.120(B)(2).

Several cities have, or have had, heritage tree programs but they are not as effective for tree preservation as exceptional tree ordinances because the property owners must give consent for the trees on their private property to be designated as heritage trees. This is the case in all of the heritage tree programs examined for this report: Seattle, Bonney Lake, Lake Forest Park, Mercer Island, Ridgefield, and Vancouver. Trees designated as heritage trees acquire protection from removal but the voluntary nature of the programs allows property owners to refuse to add an extra burden and commitment to their land.

Bonney Lake has only a single heritage tree in the entire city and even that is in a public park. Were it not for that one tree, the ordinance would have been eliminated when the Code was revised in 2020. Lake Forest Park no longer administers its heritage tree program because it did not provide any additional protection for trees. Mercer Island abandoned its heritage tree program because no property owners were taking part out of fear that it would have a negative impact on the value of their property.

Of the cities examined for this report who have had heritage tree programs, only Seattle and Vancouver maintain actively growing heritage tree inventories. Seattle has about 250 on private property and grants exceptional tree status to all of its heritage trees so that with the owner's consent they receive the exact same protections that those that qualify as exceptional trees based on the Code get automatically. Each year about a dozen nominations of heritage trees on private property in Seattle fail because the owner refuses to give consent. Vancouver has about 40 heritage trees across the entire city, each nominated by the property owner and now unable to be removed from the inventory. In both cities, heritage tree status adheres to a tree even if ownership of the underlying property changes.

The Heritage Tree program in Ridgefield, enacted in October 2018, provides an example of the weak protections these programs offer.

Ridgefield defines heritage trees in its code at Section 18.840.030 as having one of the following characteristics: a DBH greater than 36 inches; a distinctive size, shape, or location; a distinctive species, age, or exceptional beauty that warrants heritage status; a functional or aesthetic relationship to a natural resource like a stream bank that conveys distinctiveness; or a documented association with a historical figure, property, or significant historical event. RMC 18.840.020 requires the city to maintain an inventory of its exceptional trees and to update the inventory annually.

Anyone can nominate trees to City Council for designation, including the Public Works Department, which nominates trees from sites where development has been proposed, but RMC 18.840.020(C) grants property owners the right to object to the designation. The City Council interprets the ordinance as though it is entirely voluntary on the part of the property owners, and has so far refused to override any of their objections, despite no language in the ordinance giving property owners an absolute right to block trees on their property from being protected. The Council has relied on the subjective nature of many of the criteria, which is different from most of the exceptional tree ordinances that protect trees of a certain size, to reject nominations.

While the initial inventory was a success with 90% of the 40-50 nominated trees receiving heritage status, the City Council did not grant the status to any of the nominated trees at the first annual update because of owner objections.

The program also provides weak protection against developers because rather than providing *per se* protection of large trees, it relies on the City Council to vote on whether to protect trees nominated to it. This creates a loophole that would allow a developer to remove trees that have been nominated for designation as heritage trees before the Council has had a chance to vote on their nomination.

In conclusion, heritage tree programs do not protect trees as well as exceptional tree ordinances because property owners can block the designation. The heritage tree ordinance in Ridgefield was meant to provide strong protection for large trees but nonetheless demonstrates the weakness of this type of program because the City Council there has deferred to property owners rather than tree preservation.

XIII. Enactment

Enactment in Kenmore of an exceptional tree ordinance to protect more big trees will require a City Council vote on an ordinance to make changes to the tree regulations in the Land Use Code found at Title 18 of the Kenmore Municipal Code. The process for such changes would involve a process of approximately six months and require staff resources from the Planning Department, Development Services Department, and the City Attorney. The process would entail a SEPA environmental determination by the Development Services Director, a 60-day notice to the Department of Commerce providing a draft of the new regulations and showing which department is responsible for carrying it out, a public hearing before the Council with a draft of the new regulations available to the public, and finally, the adoption of the ordinance with review by the City Attorney.

XIV. Appendix A: City Facts

City	County	Population (2021) ^{ix}	Date Ordinance Implemented	Specific Species Protected	Inventory of All Exceptional Trees Maintained
Bainbridge Island	Kitsap	26,254	2018	Yes	No
Bonney Lake	Pierce	21,354	2020	No	No
DuPont	Pierce	9,556	unknown	Yes	Yes
Duvall	King	8,267	2018	Yes	No
Kenmore	King	23,281	N/A	N/A	N/A
Lake Forest Park	King	12,638	2017	Yes	No
Mercer Island	King	25,918	2017	Yes	No
North Bend	King	8,039	2018	Yes	No
Redmond	King	80,915	1998	No	No
Ridgefield	Clark	10,807	2017	No	Yes
Seattle	King	776,555	2001/2009 ⁵	Yes	Yes
Tacoma	Pierce	221,259	2018	No	No
Woodway	Snohomish	1,393	2006	No	No

⁵ The ordinance took effect in 2001. The Director's Rule defining which trees are protected took effect in 2009.

XV. Appendix B: Species and Size Threshold Protections by City

Species ⁶	Seattle ⁷	Bainbridge Island ⁸	DuPont ⁹	Duvall ¹⁰	Lake Forest Park ¹¹	Mercer Island ¹²	North Bend ¹³
Sitka Alder	6"						
Oregon Ash	24"					24"	
Quaking Aspen	12"					12"	
Paper Birch	20"	30"				20"	
Cascara	8"					8"	
Western Red Cedar	30"	30"	30" (45")	30"	42"	30"	30"
Pacific Crabapple	12"			12"		12"	
Pacific Dogwood	6"			6"		6"	12"
Douglas Fir	30"	40"	30" (45")	30"	42"	30"	30"
Grand Fir	24"	40"		24"	33"	24"	24"
Black Hawthorn	6"			6"		6"	
Western Hemlock	24"	30"	30" (45")	24"	36"	24"	24"
Madrona	6"	24"	24" (30")		12"	6"	
Bigleaf Maple	30"	36"	30" (45")	30"	42"	30"	30"
Dwarf or Rocky Mountain Maple	6"					6"	
Vine Maple	8"					8"	
Oregon White or Garry Oak	6"	30"	24" (30")			6"	
Lodgepole Pine	6"					6"	
Shore Pine	12"			12"		12"	12"

⁶ Trees only protected when in a grove are not included. Non-native species are in italics.

⁷ Protected species found at Director's Rule 16-2008 Table 1.

⁸ Protected species found at Bainbridge Island Municipal Code 16.32.020.

⁹ Protected species found at DuPont Municipal Code 25.10.120.005. The first number is for trees with a single trunk first, the number in parentheses is for multi-trunk trees.

¹⁰ Protected species found at Duvall Municipal Code Table 14.40.120.1.

¹¹ Protected species found at Lake Forest Park Municipal Code 16.14.030 Table 1.

¹² Protected species found at Mercer Island Municipal Code 19.16.010 Exceptional Tree Table.

¹³ Protected species found at North Bend Municipal Code 19.10.020(22) Exceptional Tree Species and Their Threshold Diameters.

Species	Seattle	Bainbridge Island	DuPont	Duvall	Lake Forest Park	Mercer Island	North Bend
Western White Pine	24"				36"	24"	
Western Serviceberry	6"					6"	
Silver Maple		36"					
Sitka Spruce	6"	36"		30"		6"	30"
Willow (all native species)	8"					8"	
Pacific Yew	6"		24" (30")	6"		6"	
Orchard Apple	20"			20"		20"	
European Ash	22"					22"	
Green Ash	30"					30"	
Raywood Ash	24"					24"	
European Beech	30"					30"	
European White Birch	24"			24"		24"	
Atlas Cedar	30"					30"	
Deodor Cedar	30"					30"	
Incense Cedar	30"			30"		30"	
Flowering Cherry	23"			24"		23"	
Lawson Cypress	30"					30"	
Kousa Dogwood	12"			12"		12"	
Eastern Dogwood	12"					12"	
American Elm	30"	30"		30"		30"	
English Elm	30"			30"		30"	
Ginkgo	24"			24"		24"	
Common Hawthorn	16"					16"	
Washington Hawthorn	9"					9"	
European Hornbeam	16"					16"	
Common Horse Chestnut	30"	40"					
Red Horse Chestnut	30"						
Katsura	30"					30"	
Littleleaf Linden	30"					30"	
Honey Locust	20"					20"	

Species	Seattle	Bainbridge Island	DuPont	Duvall	Lake Forest Park	Mercer Island	North Bend
<i>Southern Magnolia</i>	16"					16"	
<i>Paperbark Maple</i>	12"					12"	
<i>Japanese Maple</i>	12"	12"				12"	
<i>Norway Maple</i>	30"						
<i>Red Maple</i>	25"					25"	
<i>Sugar Maple</i>	30"					30"	
<i>Sycamore Maple</i>	24"					24"	
<i>Monkey Puzzle Tree</i>	22"	36"				22"	
<i>Mountain-Ash</i>	29"					29"	
<i>Pin Oak</i>	30"	30"				30"	
<i>Red Oak</i>	30"	38"				30"	
<i>Callery Pear</i>	13"					13"	
<i>Austrian Black Pine</i>	24"					24"	
<i>Ponderosa Pine</i>	30"	30"				30"	
<i>Scot's Pine</i>	24"					24"	
<i>London Plane</i>	30"					30"	
<i>Flowering Plum</i>	21"					21"	
<i>Coastal Redwood</i>	30"	30"				30"	
<i>Giant Sequoia</i>	30"			30"		30"	30"
<i>Japanese Snowbell</i>	12"					12"	
<i>American Sweetgum</i>	27"					27"	
<i>Tulip Tree</i>	30"					30"	
<i>Willow (all non-native species)</i>	24"					24"	
<i>Beech (Fagus grandifolia)</i>		36"					
<i>Catalpa</i>		36"					
<i>Lombardy Poplar</i>		38"					
<i>Black Locust</i>		30"					
<i>Monterey Pine</i>		30"					
<i>Sycamore</i>		36"					

Species	Seattle	Bainbridge Island	DuPont	Duvall	Lake Forest Park	Mercer Island	North Bend
<i>English Walnut</i>		30"					
<i>Eastern Black Walnut</i>				30"			

Cities in the Report but Not in the Chart Because They Do Not Protect Exceptional Trees by Species:

- Bonney Lake defines exceptional trees as those “30 inches or greater at DBH, excluding cottonwood trees (*Populus trichocarpa*), white alder (*Alnus rhombifolia*), and red alder (*Alnus rubra*).” (BLMC 16.60.030(F)(10))
- Redmond defines Landmark Trees as “Any healthy tree over thirty inches in diameter or any tree that is particularly impressive or unusual due to its size, shape, age, historical significance or any other trait that epitomizes the character of the species.” (RMC 20A.20.120)
- Tacoma defines an exceptional tree as “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 Planning and Development.” (TMC 13.11.550(E)(1)(c)(2)) Its Code also says “Conifers and Madrone are considered exceptional trees.” (TMC 13.11.550(E)(1)(c))
- Woodway defines exceptional trees as “a tree that has been determined by the Director to be worthy of long-term retention because of its unique combination of size, species, age, location, and health. All trees, except red alder or species listed as exempt in Section 16.12.050, with a diameter of thirty inches or greater are exceptional trees.” (WMC 16.12.020) The excluded tree species are English laurel, English holly, Leyland cypress, and non-native cultivated fruit trees. (WMC 16.12.050)

XVI. Thanks

Thank you to the people listed below for their assistance in better understanding the exceptional tree ordinances and heritage tree programs they administer. Anything in this report that was not cited to an ordinance came from my discussions with the following people.

- Ashley Adams, City Arborist, Lake Forest Park
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- Terry Bryant, Public Works Director, Woodway
- Jamie Burrell, Senior Planner, North Bend
- Troy Davis, Senior Planner, Duvall
- Chanda Emery, Senior Planner, Seattle
- Bryan Kast, Public Works Director, Ridgefield
- John Kenney, City Arborist, Mercer Island
- Barbara Kincaid, Community Development Director, DuPont
- Dylan Marcus, Planner, Bainbridge Island
- Charles Ray, Urban Forester, Vancouver
- Nolan Rundquist, City Arborist, Seattle Department of Transportation
- Lisa Spadoni, Natural Resources Program Supervisor, Tacoma Planning and Development Services
- Jason Sullivan, Planning and Building Supervisor, Bonney Lake

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<https://www.climatesolutions.org/article/1590119179-mature-trees-are-biocarbon-heavyweights>.

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ⁱⁱⁱ Armour, T., Job, M., & Canavan, R. (2012). In *The benefits of large species trees in urban landscapes: A costing, design and management guide* (pp. v-vi). CIRIA.

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^v Id at 36.

^{vi} Lucas v. South Carolina Coastal Council, 505 US 1003, 1027 (1992)

^{vii} Crowe, M. (2020, September 8). *'Please leave now:' Level 3 fire evacuations for parts of Bonney Lake*.

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^{viii} Seattle Department of Transportation. *Heritage Tree Program*. (n.d.).

<http://www.seattle.gov/transportation/projects-and-programs/programs/trees-and-landscaping-program/heritage-tree-program>.

^{ix} *Top 500 Cities in Washington by Population*. Cities in Washington by Population (2021). (n.d.).

<https://worldpopulationreview.com/states/cities/washington>.



City of Kenmore, Washington

Date: September 10, 2021
 To: Kenmore City Council
 From: Garrett Oppenheim, Policy Analysis Intern
 Re: Residential Tree Subsidy Programs

I. Introduction

A. Context

At the City Council meeting on April 19, 2021, Bryan Hampson and Samantha Loyuk presented a summary of Kenmore's tree regulations including potential code amendments to further protect, preserve, and enhance Kenmore's urban forest. The presentation included a list of short-term and long-term action items, labelled List 1 and List 2.

List 1 was composed of five recommendations that could be accomplished this year, including changing the definition of "significant tree" so it includes smaller diameter at breast height (DBH) trees, revising tree retention requirements so certain "nuisance species" (i.e., cottonwood and alder) do not receive credit for retention, codifying the tree removal application process for existing single-family residences, updating the removal penalty language for consistency, and shortening the validity period for tree removal permits so replacement trees get into the ground faster.

List 2 was composed of more long-term items and consisted of increasing the tree density requirement for new development, decreasing yearly allowances for single-family tree removal, always requiring replacement of removed trees, establishing maximum floor area ratios to limit the size of single-family residences, creating a tree fund for instances where replacement is infeasible that would potentially include a tree rebate program for planting trees on single-family lots, and establishing an exceptional tree program. I was hired as an intern to research the final two items, exceptional tree ordinances and tree rebate programs, and draft policy papers on each.

Additionally, on July 29, Senior Planner Samantha Loyuk submitted a proposal to King Conservation District (KCD) to reassess the City's tree canopy and set up a tree giveaway where trees are given to residents for free. On September 7, KCD's Urban Forestry Working Group preliminarily decided to fund a tree giveaway event in Kenmore in 2022.

B. Background

Trees provide innumerable benefits to the community whether they are in the Amazon rainforest or a residential yard. Those benefits range from public health to the

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environment and to the economy. Trees produce oxygen and enhance respiratory health, trap airborne particulates, and reduce smog.ⁱ They sequester carbon dioxide and reduce the concentration of greenhouse gases in our atmosphere.ⁱⁱ They act as natural air conditioners and help to reduce temperatures in the summer but also act as windbreaks, decreasing heating needs in the winter.ⁱⁱⁱ They provide habitats for birds, insects, and animals and help with the management of storm water.^{iv} Homes landscaped with trees generally sell more quickly and for 5% to 15% more money than those without trees and where streets are lined with trees, home values rise by as much as 25%.^v

There are also equity concerns regarding the urban canopy. Neighborhoods in which reside a majority of people of color have 33% less canopy than majority white neighborhoods and neighborhoods in which 90% or more of the people live in poverty have 41% less canopy than those communities in which less than 10% of the people live in poverty.^{vi}

Despite the importance of trees, the U.S. is on pace for an 8.3% decline in the tree canopy by 2060.^{vii} Planting 522 million trees in the urban areas of this country will lead to tree equity, the proper number of trees for everyone to experience the health, economic, and other benefits trees provide.^{viii} It would also support nearly 4 million jobs nationwide, mitigate over 55,000 tons of particle pollution, and absorb over 9 million tons of carbon.^{ix}

Residential tree subsidy programs are one way for cities to expand their urban canopy and accumulate the benefits trees provide at some cost and city staff time. Many cities in Washington State and across the country have successfully implemented residential tree subsidy programs. For the purposes of this study I examined programs within Washington in Seattle, Kirkland, Lynnwood, Tacoma, and Vancouver and, to get a broader perspective of other ways they function across the United States, those offered in Arlington County, VA; Fort Lauderdale, FL; Lima, OH; Louisville, KY; and Riverside, CA. Many other jurisdictions have programs like these in place but I limited the examination to these cities because they provide a diverse array of methods to fund, implement, and administer such programs.

Residential tree subsidy programs are like snowflakes with seemingly no identical pair but I found there to be three general models that also share similarities in staff time commitments, if not much else: giveaways, rebate programs, and voucher and coupon programs. There are three primary funding mechanisms for such programs in the form of grants, tree code violation fees, and utilities. Spending and program operation methods are impossible to categorize. Every program administrator has learned lessons over time and they shared with me advice based on their experiences to help a new program avoid the difficulties they faced in the early going.

This report will show how the various models work and provide lessons learned through firsthand experience so that Kenmore can proceed knowledgeably and with the benefit of the wisdom gained by those who have previously blazed this path.

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C. Recommendation

In light of the fact that there is no longer time to set up a tree giveaway program before the start of the 2021 planting season and that KCD has preliminarily agreed to fund a giveaway event in 2022 based on Samantha Loyuk's grant proposal, it is recommended to utilize the KCD funds to operate a pilot program giveaway next year for the 2022 planting season. After the 2022 giveaway program concludes, staff can evaluate the program in terms of its success as well as the staff time and resources it would need to become a permanent and ongoing program.

Furthermore, the establishment of a tree giveaway or subsidy program should be considered in the context of the recommendations that will come out of the Climate Action Plan (CAP), which will likely produce a long list of potential new programs, and the work plan dockets for future years.

II. Motivations

The cities studied here had a multitude of reasons for starting their residential tree subsidy programs. Lynnwood uses the program to help meet its requirements as a Tree City USA member. For Kirkland and Lima, the program is an aspect of managing storm water runoff. Lima also operates the program to raise property values and maintain and increase its tree canopy, a purpose shared by Louisville and Tacoma. Fort Lauderdale uses the program as a way to recoup equivalent value for what is lost when residential trees are removed. Riverside's program is exclusively about increasing energy efficiency by adding shade trees to residential yards and businesses.

III. Funding

A key issue facing jurisdictions who subsidize the planting of residential trees is how to pay for the trees. In fact, the top advice given by Mark Williams of Fort Lauderdale was to identify your funding sources when embarking on a program of this nature because they will dictate everything else about the program.

There are three primary means of funding used by the programs my research uncovered: grants, fees associated with the tree code, and utility partners.

A. Grants

Kirkland's funding comes from a storm water management grant from the Department of Ecology (DOE), of which \$20,000 is dedicated to the tree rebate program.

The **Louisville Metro's** Division of Community Forestry provides \$12,000 to \$20,000 in grants each year to the program there.

B. Fees Associated with Tree Removal and Other Tree Code Violations

Funding for the Tree Canopy Fund in **Arlington County, VA** is supplied by commercial developers who cannot meet the tree planting code. The fund holds about \$400,000 and EcoAction spends about \$250,000 each year on the program for trees and program management.

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Fort Lauderdale spends at most \$50,000 each year from the city's Tree Preservation Trust Fund, which receives payments in lieu from property owners who choose not to or are unable to plant replacement trees.

Lynnwood pays for its program with money from tree removal permits associated with developers paying to clear land for new construction.

To fund its Treefund program, **Vancouver** uses \$5,000 each year from its City Tree Account, which itself receives funds from two sources: property owners making payments in lieu of planting replacement trees when there is not sufficient space for them all and fines for violations of the Tree Code.

C. Utilities

The funding for **Lima's** rebate program comes from the city's Stormwater Utility, beginning at \$5,000 in 2016 with more money allocated each year due to the program's success.

Shade trees provide public benefits through energy efficiency, allowing **Riverside** to use the 2.85% public benefits charge that California charges on electric bills to fund its program.

Seattle has three funding sources for its Trees for Neighborhoods program, two of which are utility-based. The primary source is a percentage of rate payer fees for public utilities such as sewer and garbage pick-up. Seattle City Light also provides a small amount to compensate for its removal of trees under power lines and a further small proportion comes from the city's general fund. The program costs about \$150,000 per year with the bulk of that paying for the trees (\$60,000), the contractor's fees (\$50,000), and the program manager's salary.

Tacoma likewise has three funding sources but receives the bulk of it from two utilities. The Surface Water Utility provides funding for trees in Tacoma while Tacoma Public Utilities provides funding for trees to be planted outside Tacoma but still in Pierce County. An additional \$15,000-16,000 was in the form of a grant from the Russell Family Foundation until this year; then Pierce County will provide some funding beginning in 2022.

IV. Operations

These programs take many forms. Some cities buy up a bunch of trees and give them away to residents who request them. Other cities rebate tree purchases by eligible program participants. And finally, some provide vouchers or coupons to residents to redeem for trees.

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A. Giveaways

1. Arlington County

The local nonprofit EcoAction has administered the Tree Canopy Fund for Arlington since it was authorized in 2007 with oversight from the county Urban Forestry Commission (UFC). Together, EcoAction and UFC choose what kind of trees to offer with a focus on native species. In general, they offer big trees with a minimum two-inch caliper at the time of planting. EcoAction makes a list of the 10 or so types of trees they have available each year, worth about \$400 to \$500 per tree, and program participants pick what kind they want with no limit to the quantity for which they may apply.

EcoAction plans two events each year; the first is announced in the spring with applications due in June and the second is announced in October with applications due in March.

All property owners in the county are eligible, including homeowners, condominiums, apartment buildings, churches, and clubs. About 80% of applicants are homeowners but the percentage of trees they receive is not nearly that high because apartment and condominium complexes generally have much more room to plant large trees.

Participants apply online and EcoAction evaluates their applications. The principle reasons that applications are denied is that they either live outside Arlington County or have requested a larger tree than they have room for.

During planting season – November and December for the event announced in spring and March for that announced in fall – EcoAction’s contractor partner, found through the RFP process, delivers the trees to participants and plants them. It takes about two weeks to do all the planting for each event.

In addition to the Tree Canopy Fund, Arlington County runs a second program that gives away whips, much smaller trees in two-gallon containers. This program requires participants to have transportation and pick up the trees themselves, thus providing challenges to participants that the Tree Canopy Fund program does not.

2. Fort Lauderdale

Fort Lauderdale operates two tree giveaway programs, the large scale Biannual (sic) Tree Giveaway, which has been in place since at least the early 2000s and occurs twice a year, and the smaller scale Mini Tree Giveaway, created in 2018.

Fort Lauderdale has a contract, arrived at by a competitive process and lasting three years with an option to add two more with amendments for pricing, with a tree supplier for all the trees the city needs. The city forester orders the needed trees and then makes some of them available through the giveaway programs, attempting to mimic what Arbor Day Foundation (ADF) does with its Energy Saving Trees Program, described in greater detail in Section VII below, and in fact Fort Lauderdale hopes to start working with ADF in the near future in order to make the giveaway programs more efficient.

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For the Biannual Giveaway program, the city used to rotate among four locations but they have now settled on one secure holding nursery which makes logistics easier in terms of transportation. To make the public aware that it is happening, they send out email blasts about a month and a half in advance, post on social media, and publish newspaper ads, especially in underserved areas. The list of available species is published about four to five days before an event and all trees given away are two to four feet tall and come in three-gallon pots. All Fort Lauderdale residents are eligible to participate in the program to receive up to two trees per resident each year as long as they bring proof of residency in the form of a license or a utility bill with them to the event. If there is a surplus of trees available, city staff has the discretion to give away more than two per person.

The Mini Tree Giveaway program only happens when neighborhoods apply to take part. It is smaller than the Biannual Giveaway with no more than 50 three-gallon trees per event. In 2018 and 2019, there were about 20 such events per year, though they have been put on hold since then because of the COVID-19 pandemic.

The city has three methods of informing what kinds of trees to include in the giveaways: It surveys program participants as to what kind of trees people want, it performs an analysis of what types of trees people actually take from what has been offered each year, and finally, the city has partnered with the University of Florida to see what trees their scientists suggest with regard to diversity of species, salt tolerance, and environmental success.

3. Seattle

The city administers the program and hires a contractor to execute it. The current contractor is the University of Washington whose tasks are tree distribution, field evaluations of street trees, and tree inventories. The Seattle Department of Transportation also works as a partner, determining how many trees will fit on properties and thus whether requests should be approved in full or only in part.

The trees are procured from wholesale nurseries throughout Washington and Oregon. Lou Stubecki, the certified arborist who manages the program, has sole authority to select the tree species to be given away each year. He chooses twelve species, one-third of which each are small trees, street trees, and large conifers. Small trees, meant to go under high voltage wires, are the most popular. Street trees, which can also be planted in yards, are medium to large deciduous trees that cannot live under power lines. Large conifers are the least popular because of their size but they are important to the Pacific Northwest for controlling stormwater runoff and are well suited to our local climate.

Seattle residents are eligible to apply to the program to get up to four trees per year and all participants must attend a workshop to learn proper planting techniques and tree maintenance before they can receive trees through the giveaway. Recipients are

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responsible for planting trees themselves, unless they have a disability, in which case volunteers will assist with the planting.

There are always more applicants than trees available so once prospective participants apply, they are placed into a lottery for the type of tree they have chosen. Most participants tend to prefer trees with pretty flowers and smaller ornamental trees that are easier to fit in urban spaces, and while the city does not impose large trees on anyone, the program manager does attempt to redirect those who are underutilizing their space from small trees to larger ones.

Some species, particularly high-demand small trees, end up with a waitlist while the supply of large trees occasionally outpaces demand. In order to make sure no trees remain undistributed at the end of the year, the program manager contacts people who were waitlisted to gauge their interest in taking larger trees. In the end, whether those waitlisted take them or they go to a public space, no trees are ever left without homes.

B. Rebate Programs

1. Kirkland

Before participants in Kirkland's program can get the rebate, they must pass an online tree planting course and submit a five-year maintenance agreement promising to care for and maintain the trees they purchase. Once those initial steps are complete, participants can go to the nursery of their choosing and buy any trees they want. The trees are supposed to be ones found on the list of acceptable trees DOE recommended but nurseries rarely have those trees so Kirkland wrote into the grant that its staff can use their discretion to approve other trees and they do so for trees that, when mature, will be at least fifteen feet tall and ten feet in canopy width.

After buying the trees, the participants send in photos of the nursery tag and the tree planted in the ground along with their receipts and the City reimburses them with a check in two to three weeks in amounts up to \$150 per tree and no more than \$500 per property. In addition to trees, the program covers the cost of mulch, compost, and drip irrigation, but never to exceed the \$500 limit per property.

When someone applies, the program administrator sets aside the full \$500 allotted to each household just in case they use the entire amount. When 40 households have applied, the full \$20,000 is set aside and a waitlist opens. The average rebate is closer to \$260 so when a participant receives their rebate the remaining money returns to the fund and the waitlist either closes if no one is on it or the first waitlisted person is notified that they can participate in the program.

2. Lima

Eligibility to participate in Lima's rebate program is based on residence in the city of Lima and payment of stormwater fees. Once a prospective participant has been deemed eligible, a representative of the Soil and Water Conservation District visits the applicant's

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home for a consultation to help pick the right size and species of tree for their individual circumstances and to teach about proper tree care and maintenance.

After the consultation, the participant goes to a nursery and buys their trees, up to two per parcel per year. The participant can choose to plant the trees themselves or have them professionally planted, and if they opt for the latter, the program will cover one-half of the cost. Once the trees have been planted, the Soil and Water representative returns to the participant's house to check on them and the participant shares their receipts. Within a couple of weeks, participants receive a check reimbursing them for 50% of the cost of the trees, and if applicable, the professional planting.

The purchased trees must be approved trees found on the City of Lima Tree Guide. Divided into three categories by size, the list includes about 60 species chosen by the Urban Forestry Council, a committee composed of professionals from the Parks Department, Soil & Water Conservation District, the city, and some private citizens. The trees that made the list were selected based on what the Council wanted to see more of in the city, what would be good for the soil, and what would thrive in the area while providing a diverse canopy that would be capable of warding off diseases that might wipe out too many of the same type of tree congregated in one place.

There are no restrictions as to where a participant purchases their trees or how much they spend. Recently, a single participant spent over \$1,000 and their rebate was approved because, despite the expense, the tree purchased was from the approved list.

3. Louisville

TreesLouisville, a private 501(c)(3), administers the program for the city, processing applications, issuing rebates, and sending quarterly reports back to the metro government.

Through consultations with arborists, TreesLouisville assembled a list of eligible large- and medium-sized canopy trees that are easy to find at local nurseries. Trees must meet certain species and height criteria for eligibility. For instance, maples are eligible only if they are over 25 feet tall at maturity, but dogwoods are eligible below that height threshold. Beyond the size and species limitations, the tree must have a one-inch or larger caliper at planting time and be planted on residential property in Jefferson County.

Participants are encouraged to buy trees from local nurseries but there is no requirement to do so. Participants buy their trees and then submit an online application or fill out and mail in their application with an itemized receipt to TreesLouisville. Rebates are available on a first-come, first-served basis while funds remain available and checks for \$30 per tree on a minimum purchase of \$30 are mailed out on a weekly basis. Each household can submit up to three rebates per round of funding.

4. Riverside

There are two aspects to Riverside's program, rebates and coupons. The rebate side of the program allows customers of the utility company in Riverside to buy from a source of

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their choosing up to five trees per year. Citrus trees are excluded from the rebate program because a disease in the area has been spreading through and killing them and both palm and dwarf trees are also excluded because neither of them provide any shade; otherwise, participants are free to select any tree they desire. After making their purchase, participants send their receipts into the utility and receive a rebate of up to \$35 per tree in the form of a utility credit.

5. Vancouver

Vancouver partners with local nurseries who mark trees in their stock from the city's list of approved trees. City residents can purchase up to five trees per property from those marked trees for 50% off, up to \$50 per tree. Residents who utilize e-billing for their utilities can get \$100 off the purchase of one tree. Program participants mail in an application after planting the tree and a city staff member visits their property to inspect the site. Once the staff member has verified that the tree has been planted, the city mails the resident a refund check.

Eligible trees must have a 1.5-inch diameter six inches above the soil and be six feet tall if a broadleaf or four feet tall if a needle tree. They have to be planted on a residential property in the city of Vancouver with space to reach their full size at maturity. No dwarf fruit or nut trees are ever eligible.

Participants must get and plant the trees themselves, which has led to a decline in popularity because another program exists in the city in partnership with a nonprofit that holds planting events once a year. The nonprofit helps pick the trees and digs the holes for participants, making it a convenient alternative for those people who do not mind waiting for the annual event.

C. Voucher and Coupon Programs

1. Lynnwood

The process of participating in the program begins by going online to fill out an application which informs the city what kind of tree(s) the applicant wants to buy and how much they cost. The program administrator receives an email with the application and verifies eligibility based on two factors: the applicant's address and whether they have received the full \$500 in vouchers in the twelve-month period preceding the application. In order to be eligible, participants must live within the Lynnwood city limits so even those in unincorporated Snohomish County with Lynnwood addresses are ineligible.

Applicants apply for the amount they want in \$50 and \$100 increments up to \$500; they need not apply for their full \$500 for the year at once and can apply multiple times within the year until they reach that level. If the applicant is eligible, the administrator mails them the vouchers in \$50 and \$100 increments. The vouchers come in carbon copies; the city keeps one of the three copies which memorializes the date it was issued so that a participant cannot use it after its expiration.

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The vouchers can be redeemed at any participating Washington State Nursery and Landscape Association (WSNLA) affiliated nursery across the state, a list of which can be found at the program's website. The nursery fills out the type of tree and date when the purchase is made on the remaining two copies of the voucher and sends both copies to the WSNLA, which adds up all the costs and sends an invoice to Lynnwood. The city pays WSNLA and it, in turn, pays the nurseries.

There are no restrictions as to what tree species program participants can buy with their vouchers. All trees are eligible. Lynnwood uses the USDA plant list to determine what constitutes a tree and bases that determination on the General Information table. If the Growth Habit box includes "tree," it is an acceptable plant, regardless of whether or not it also says "shrub."

2. Riverside

The second aspect of the program in Riverside, CA is a coupon the utility sends to every utility customer once a year. Customers can redeem the coupon at any participating nursery in Riverside for one free five-gallon tree per year.

3. Tacoma

Previous to the Tree Coupon Program, Tacoma had given out free trees from 1996 to 2010 but when the city did an inventory of the trees it had given away, it found that half had died and determined that in order to incentivize participants to properly care for their trees, the participants had to have a financial interest. Thus the Tree Coupon Program was born, paying for part of the cost of trees while program participants cover the difference between the coupon amount and the total price.

Applicants go to the city's tree coupon website to determine their eligibility and certify that the tree will in fact be planted at their house in Pierce County. In order to be eligible to participate in the program, an applicant must be a Pierce County resident who, in order to ensure that different people utilize the program, has not redeemed a coupon through the program in any of the three prior years. Once a week, the city collects all the applications and sends out coupons along with educational materials about planting and tree maintenance to those applicants who were eligible.

There are eight participating nurseries in Pierce County where participants can redeem their coupons. Each coupon can be redeemed for up to \$30 off each of as many as three trees. The requirements as to what trees can be purchased are minimal; they must be trees as opposed to shrubs, come in no less than a 5-gallon container, and be a minimum of 15 feet tall when mature. The city prefers that participants plant shade trees and evergreens and in the past gave higher rebates for those but that practice proved to be a logistical nightmare for nurseries and was abandoned. The majority of trees purchased through the program are fruit trees, which, while not ideal, are still helpful.

The nurseries are responsible for sending invoices and the coupons to the city. Generally they send them all back at the end of the season and then Tacoma pays them for all the

redeemed coupons. The coupons must be returned because each is individually numbered, allowing Tacoma to track overall participation and the number of trees planted in different areas of the city and county.

V. Staff Time

Residential tree subsidy programs can require anywhere from an hour or two of staff time each week to the work of a full time employee working 40 hours each week. There are some commonalities in the staff time requirements of each program based on whether the program model is giveaway, rebate, or voucher. No matter the program model, time must be spent writing grants, administering the program, and reporting out.

A. Giveaways

Of the models that my research turned up, tree giveaway programs generally require the largest commitment of staff time. Arlington County and Seattle plant similar numbers of trees per hour of staff time but Fort Lauderdale plants significantly more.

The Tree Canopy Fund in **Arlington County** requires an average of about five to ten hours per week of staff time. More time is required during weeks in which applications are being submitted and reviewed, but there are other times of the year when the program requires very little or even no time. The program plants about 400 trees each year, or about 0.8 trees per hour of staff time.

The Biannual Tree Giveaway program in **Fort Lauderdale** requires four to six weeks of full time work from one employee, or about 160 to 240 hours each year, spread across the two months preceding each of the year's two events. That does not account for the time spent preparing for the more ad hoc Mini Tree Giveaway program, for which there were about 20 events annually prior to the COVID-19 pandemic. Together the programs give away over 3,000 trees a year, or about 12.5 trees per hour of staff time.

Seattle's Trees for Neighborhoods is run by one city employee who spends about 80% of his time working on it. From June to November, the program takes up all of his time and also requires weekends and overtime. He works on other projects from December to May but it still takes up a significant amount of his time then. Seattle also contracts with an outside organization for distribution, field evaluations, and inventorying at a rate of about \$50,000 per year. The program is responsible for giving away 1,000 trees every year, or about 0.6 trees per hour of staff time.

B. Rebate Programs

The cities whose subsidy programs take the form of rebates require between one and five hours of staff time each week with wildly varying numbers of trees planted per hour of staff time, ranging from 0.1 in Lima to 115 in Riverside.

Louisville is at the low end as its contract partner TreesLouisville spends about an hour each week running the weekly batch of rebate checks and entering applications that arrive

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by mail into the computer system. Since 2017, the program has rebated 500 trees, or about 1.9 trees per hour of staff time.

Riverside's program is a hybrid model with rebates and coupons and it takes one to two hours each week to administer. Their program also requires an annual report that takes about a month of full time work to write on top of the weekly commitment. Between the rebates and the coupons, the program is responsible for planting about 12,000 trees each year, or about 115 trees per hour of staff time, not including the time needed to write the annual report.

The program in **Vancouver** also requires one to two hours per week, equivalent to four to eight hours each month, to process applications and make site visits to confirm that trees are planted. In the most recent years, the program has rebated about 50 trees annually, or about 0.5 trees per hour of staff time.

In **Kirkland**, about four hours each week are dedicated to the rebate program, approximately ten percent of one full time employee's time. As of the beginning of July 2021, a total of 42 trees had been rebated this year, which works out to about 0.4 trees per hour of staff time.

Lima is at the high end with a contract with the Soil and Conservation District for 260 hours per year, an average of five hours per week. The contracted work includes processing applications, educating applicants about proper tree care, promoting the program, performing consultations, and checking up on the trees that have been planted every five years. In the five years the program has been in operation, it has rebated about 125 trees and while there has been some annual fluctuation, the number has been fairly consistent at about 25 trees rebated each year, or about 0.1 trees per hour of staff time.

C. Voucher and Coupon Programs

Cities using voucher and coupon programs report widely varying staff time commitments. The numbers of trees planted per hour of staff time are also vastly different.

The voucher program in **Lynnwood** requires four to five hours a week every week, or 208 to 260 hours per year. In 2020, Lynnwood sent 363 \$100 vouchers and a small number of \$50 vouchers, 70-80% of which were redeemed for about 300 planted trees, or about 1.2 trees per hour of staff time.

The coupon program in **Tacoma** requires eight to twelve hours per week to operate during the season peak in February and March, minimal time the rest of the year, and an additional 80 hours to write the annual report required by their program. In 2019, Tacoma's program sent out 2,439 coupons and 938 were redeemed for about 2,300 trees planted, or about 24 trees per hour of staff time (including only hours devoted to operating the program and not those to write the annual report).

Table 1 Program Information

City	Program Type	Date Est'd	Spending (Per Year)	Funding Mechanism	Staff Time Commitment	Trees Planted (Per Year)
Seattle	Giveaway	2009	~\$150,000	Utility	.8 FTE	1,000
Kirkland	Rebate	2021	\$20,000	Grant	4 hours/week	42
Lynnwood	Voucher/Coupon	2003	\$38,000	Tree Code Fees	5 hours/week	~300
Tacoma	Voucher/Coupon	2012	~\$43,000	Utility	8-12 hours/year	~2,800
Vancouver	Rebate	2014	\$5,000	Tree Code Fees	1-2 hours/week	~50
Arlington County, VA	Giveaway	2007	~\$250,000	Trees Code Fees	5-10 hours/week	~400
Fort Lauderdale, FL	Giveaway	Early 2000s	\$50,000	Tree Code Fees	160-240 hours/year	3,400
Lima, OH	Rebate	2016	\$5,000+	Utility	5 hours/week	25
Louisville, KY	Rebate	2017	\$12,000-20,000	Grant	1 hour/week	~125
Riverside, CA	Rebate & Coupon	~2001	unknown	Utility	1-2 hours/week	12,000

VI. Advice

The program administrators I spoke to shared suggestions and recommendations for a city like Kenmore as it sets out to begin a residential tree subsidy program. Here are some of their recommendations.

A. Equity

Kirkland used a reimbursement model in the first year of its tree subsidy program but intends to add a coupon or voucher option in the future. The rebate model favors wealthier residents who can afford to spend their money in the first place while a voucher model offers a more equitable system that does not require an initial expenditure of personal resources to be paid back later.

Another equity issue can relate to the variety of trees offered. Because so many people prefer smaller, more ornamental trees that do little to increase overall canopy, such as dogwoods and redbuds, EcoAction stopped including them on its list and exclusively offered very big trees, but in some underprivileged communities, there is only room for smaller trees, excluding the people living there from the program. As such, it is recommended to offer sufficient variety of trees to include people from every community.

B. Saving Money and Improving Logistics

The Seattle Trees for Neighborhoods administrator Lou Stubecki recommended that if embarking on a long-term residential tree subsidy program, a good way to save time and improve logistics would be for the city to grow its own trees in a nursery on underutilized municipal property. This would make operating the program cheaper because trees are more expensive when grown by others, and it would improve logistics because delivery would be easier. A final benefit would be the elimination of the reliance on private nurseries to provide needed trees.

C. Education

Several program administrators stressed how important it is to educate program participants about proper tree care and maintenance techniques. When participants know how to properly care for trees, it makes it more likely that the trees will survive longer and increases the likelihood that the program will meet its goals of beautifying the city, providing additional canopy coverage, and benefiting from the other environmental benefits provided by healthy trees.

D. Partners

Partnering with other organizations can have multiple benefits. Community organizations can help work in underrepresented communities who might not otherwise find out about the program or get to take advantage of it. Some organizations like those profiled below in Section VII can effectively administer the program on your behalf.

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In addition to partnering with organizations, it is key to tap into the passion within your community to find volunteers who really care about the program goals and will do their best to make events successful.

E. Public Outreach

Residents can only take advantage of the program if they know it exists and therefore outreach into the community is of the utmost importance. Outreach can take the form of community engagement and advertising through social media, newspapers, and TV or radio. Effective community engagement can be vital to equity goals as well by informing underserved and underrepresented groups about the program. Lynnwood's program coordinator recommended being intentional in outreach to let people know how to access the program in order to increase green space where it's needed and not just where homeowners are already aware of it.

Tree Equity Score's website provides maps free for public use that can help determine areas of the city whose tree equity scores are lower and thus in more need of this program. The site divides Kenmore into 17 smaller sections with tree equity scores ranging from as low as the 50s across the center of the city to as high as 98 and 100 in the south.^x

F. Abuse of the System

Minor abuse of the system is inevitable but program staff should be vigilant to ensure that major fraud is not committed that will cost the program valuable funds.

G. Funding

The amount of funding the program receives will determine everything it can do, so one program administrator pointed out the importance of knowing in advance all of your funders and exactly how much money you have to spend.

H. Prepare for Low Participation Early

In many cities examined, the tree subsidy programs started small and grew in popularity over time. It takes time for word to reach enough people that the program exists for them to start taking advantage of it in large numbers. In the first year, the City should be prepared to have trees left over and have space to plant them in parks or other city property.

VII. Outside Partners

A. King Conservation District

The urban forest health management program at King Conservation District (KCD) divides \$150,000 of project management support among four to five cities for urban forest projects every year, including their preferred model of subsidy program, tree giveaways. On May 25, Kenmore's Senior Planner Samantha Loyuk, submitted a letter of interest to KCD proposing a project to reassess the City's tree canopy and set up a tree giveaway. The full formal proposal was submitted on July 29 and while a final decision can be expected in October with the funding decision following in November, on

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September 7, KCD's Urban Forestry Working Group preliminarily decided to fund a giveaway event in Kenmore in 2022.

B. Arbor Day Foundation

Arbor Day Foundation (ADF) offers the Community Canopy program, also known as the Energy-Saving Trees program. The program has interactive online technology to help homeowners find the most strategic place in their yards to plant trees to save money and energy and help the environment.

ADF contracts its services to cities to operate tree rebate and giveaway programs. They determine the city's specific needs and draft a scope of work agreement that includes information about the trees, their technology, and the distribution model. According to Katie Kosanke of Spokane, a city which partnered with ADF in the past,¹ their services completely eliminate the burden to staff except for minimal advertising and forwarding phone calls with questions about the program to ADF.

Pricing for the program is based on the trees the city chooses to give away and can range from \$35-60 per tree for those given out at events to \$40-50 for trees delivered to program participants. The per tree cost includes not just the trees but also delivery, licensing of their software, creation of the city program's website, access to reporting and metrics, and program staff support. Spokane's Kosanke did warn that the trees ADF provides are mere potted seedlings that will not make a difference to the canopy in the short term.

C. Beautify Bonney Lake

Founded by a church group in 2004 as a response to a challenge to do something to give back to the community, Beautify Bonney Lake (BBL) is a hyperlocal nonprofit that partners with the City to organize projects around Bonney Lake with a mission "to enhance the beauty of the city, by providing a vehicle to easily capture the goodwill of the citizens via their willingness to create permanent and positive improvements to the city."^{xi}

BBL offers an example of how a local organization can work with a city to engage in projects to improve the environment. Their projects are not always tree-related but, among their other activities, they have organized tree planting events in partnership with local nurseries.

The organization is funded by donations from local businesses and it never has more than about \$20,000 on hand at any one time.

BBL Chairperson Todd Dale offered an invitation to Kenmore's City Council to visit Bonney Lake during one of their events to see their work firsthand or to attend a BBL

¹ Spokane discontinued its partnership with ADF not out of dissatisfaction with the service but because funding, provided by their utilities division, was limited and no longer sufficient to operate the program.

Board Meeting to discuss what it takes to start a similar organization. He also suggested a willingness to come before the Kenmore City Council to talk about their work.

VIII. Enactment

In order to implement a residential tree subsidy program, no changes are required to current regulations. City staff can develop the details and Kenmore City Council can vote to initiate the program and authorize any contracts with third parties who might operate it.

IX. Conclusion

There are many residential tree subsidy models to emulate and learn from. Before creating a program like this, it is essential for the City of Kenmore to know its motivations, how many participants it expects and how many trees they will request, costs to administer, and from where it will receive funding and in what amounts. The questions of staff time the City wants to dedicate to the program and which model to operate - a giveaway, rebate, or coupon - are interconnected, with each worthy of consideration. It is also worth exploring partnerships to manage the program, whether with an established organization that has experience running programs such as this, like Arbor Day Foundation, or a local nonprofit that could be created, akin to Beautify Bonney Lake.

Whichever model Kenmore chooses to adopt, it remains important to keep equity concerns in mind to ensure that everyone benefits from the public goods trees provide and not a select few. Programs such as this have been successful around the country and can no doubt flourish in Kenmore too.

X. Thanks

Thank you to the following people for their assistance in better understanding the programs they administer.

Mike Carey, Urban Forest Program Manager, Tacoma. Cameron Coronado, Stormwater Engineering Technician, Lynnwood. Casey Heilman, Stormwater Program Manager, Allen Soil and Water Conservation District. Elenor Hodges, Executive Director, EcoAction Arlington. Aaron Hussman, Environmental Education and Outreach Specialist, Kirkland. Charlotte Jones, Operations Manager, TreesLouisville. Katie Kosanke, Urban Forester, Spokane. Ryan McManus, Public Utilities Customer Engagement, Riverside. Charles Ray, Urban Forester, Vancouver. Lou Stubecki, Trees for Seattle Program Manager. Mark Williams, City Urban Forester, Fort Lauderdale.

ⁱ “The Benefits of Trees.” Canopy, 17 May 2018, canopy.org/tree-info/benefits-of-trees/#:~:text=%20The%20Benefits%20of%20Trees%20%201%20Public,with%20healthy%20tree-cover%20attract%20new%20residents%2C...%20More%20.

ⁱⁱ Id.

ⁱⁱⁱ Id.

^{iv} Id.

^v Id.

^{vi} Resortaddiction. “Tree Equity Score: The U.S. Needs 522 Million More Urban Trees.” Resortaddiction, Resortaddiction, 28 July 2021, resortaddiction.com/tree-equity-score-the-u-s-needs-522-million-more-urban-trees/.

^{vii} Id.

^{viii} “New Tree Equity Score Drives Home the Important Role of Trees in Creating Social Equity.” American Forests, 29 Dec. 2020, www.americanforests.org/media-release/tree-equity-score/.

^{ix} “Tree Equity Score Project.” American Forests, 22 June 2021, www.americanforests.org/our-work/tree-equity-score/.

^x “Tree Equity Score.” Tree Equity Score- Kenmore, WA, Retrieved July 27, 2021 at treeequityscore.org/map/#12/47.75321/-122.22984.

^{xi} “Welcome to Beautify Bonney Lake.” Welcome To Beautify Bonney Lake, 2021, www.beautifybonneylake.org/.

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Tree Policy

Residential Tree Giveaway Programs
and
Exceptional Trees Ordinances

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Upcoming Tree Regulation Changes in Kenmore

► List 1

- Change definition of “significant tree” to include smaller diameter trees
- Revise retention requirements so certain nuisance species do not receive credit
- Codify tree removal application process for existing single-family residences
- Update removal penalty language
- Shorten validity period of removal permits so replacement trees get into the ground faster

Potential Future Tree Regulation Changes

- ▶ List 2
 - ▶ Increase tree density requirement for new development
 - ▶ Decrease yearly allowances for single-family tree removal
 - ▶ Always require replacement
 - ▶ Establish maximum floor area to limit size of single-family residences
 - ▶ Create an exceptional tree ordinance
 - ▶ Start a tree fund for instances where replacement is infeasible, perhaps to include a tree rebate program for planting trees on single-family lots

King County Conservation District

On July 29, Senior Planner Samantha Loyuk submitted a proposal to King Conservation District (KCD) to reassess the City's tree canopy and set up a tree giveaway.

The Urban Forestry Working Group has preliminarily agreed to fund a giveaway event in Kenmore with dispersal to occur in 2022.



Photo Credit: "Columbia Water and Light Offers Free Trees to Lower Utility Bills" by KOMUnews is licensed with CC BY 2.0.

The Value of Big Trees

- ▶ Fight Climate Change
- ▶ Increase Property Values
- ▶ Lower Energy Costs
- ▶ Clean Local Water
- ▶ Improve Health



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America Is Losing Big Trees



- ▶ 36 million trees per year lost from urban canopies between 2009 and 2014
- ▶ Washington alone lost 3,350 acres per year

Photo Credit: "Slow - clearcut" by Sam Beebe is licensed under CC BY 2.0

Part I: Exceptional Tree Ordinances

- ▶ They are a regulatory tool to protect large trees.
- ▶ Two Primary Methods
 - ▶ 1. Make a list of species and the sizes at which they are protected
 - ▶ 2. Protect all large trees
 - ▶ Risks missing important trees that do not get that large
- ▶ Generally, the protection afforded exceptional trees is a prohibition against removing them.
 - ▶ But in all cities that have exceptional tree ordinances, big trees still come down

Exceptions

- ▶ 1. Reasonable Economic Use of Property
- ▶ 2. Dead, Dying, and Hazardous Trees
- ▶ 3. Permits and Allowances

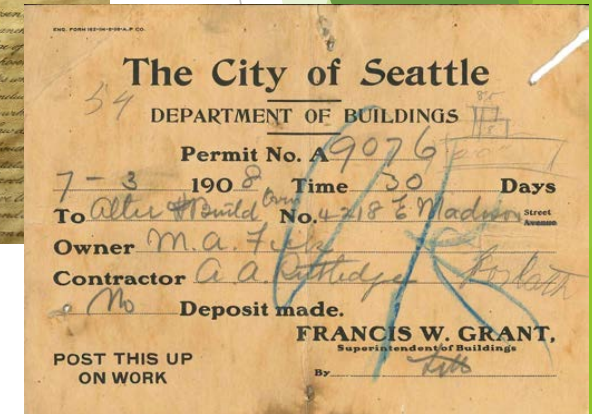
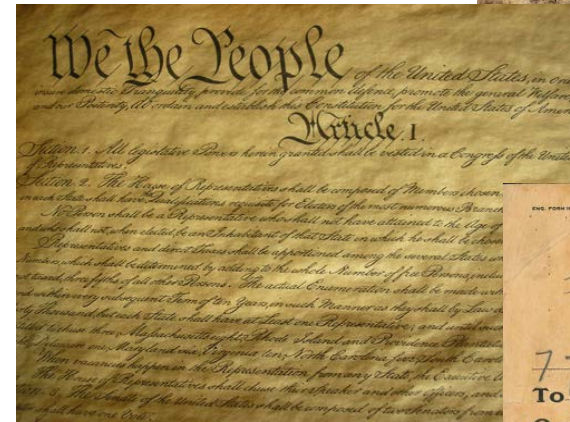


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Mitigation

- ▶ Mitigation requirements limit the impact of the exceptions to some extent.
 - ▶ replacement trees for every exceptional tree removed
 - ▶ Bonney Lake requires 9
 - ▶ Mercer Island requires 6
 - ▶ Redmond requires only 1
- ▶ But replacement trees are generally small and take many years to reach maturity so they do not fully make up the loss of exceptional trees

Penalties

- ▶ Many cities use only mitigation as the penalty for removing an exceptional tree without authorization.
- ▶ Some substitute or add a fine, often the appraised value of the removed tree but sometimes a set figure, as high as \$25,000 on Bainbridge Island



Photo Credit: "Monopoly In Jail" by ccPixs.com is licensed with CC BY 2.0.

Effectiveness

- ▶ Goals
 - ▶ Preserve large trees
 - ▶ Maintain and increase the tree canopy
- ▶ Most of the cities who have implemented exceptional tree ordinances have done so in the last five years so it's still too soon to say whether they have effectively protected more trees than they did in the past
- ▶ Development Impacts
 - ▶ Mercer Island saw a short period of diminished development
 - ▶ Lake Forest Park increased threshold sizes for protection in order to prevent the ordinance from having a negative impact on development

Staff Time

- ▶ Resources required:
 - ▶ Approximately three months of staff time to research, consult with arborists, and draft the ordinance
 - ▶ Time each week reviewing development projects and permit applications, evaluating them against new standards



Photo Credit: "Clock Work Man" by Sean MacEntee is licensed with CC BY 2.0.

Recommendation Regarding an Exceptional Tree Ordinance

- ▶ An exceptional tree ordinance should be considered in the context of 1) the Climate Action Plan and the list of potential new programs that will result from it, and 2) the code amendment work plan dockets for future years, as discussed at the City Council's annual retreat.
- ▶ It is just one tool in the tool box, one that will require significant staff time and Council decisions. And even if it is implemented, it is not a perfect tool; big trees will still come down in Kenmore.
- ▶ It would make sense to evaluate the regulatory changes taking effect this fall and determine then whether an exceptional tree ordinance is actually necessary.

Part II: Residential Tree Subsidy Programs



Washington Tree Subsidy Programs	Out of State Tree Subsidy Programs
Seattle	Arlington County, VA
Kirkland	Fort Lauderdale, FL
Lake Forest Park	Lima, OH
Tacoma	Louisville, KY
Vancouver	Riverside, CA

Photo Credits""File:Blank US Map (states only).svg" by Theshibboleth is licensed with CC BY-SA 3.0.
"cartoon tree" by megabanjo2017 is licensed with CC BY-SA 2.0.

Models of Subsidy Programs

- ▶ Giveaways
 - ▶ Used by Seattle, Arlington County, and Fort Lauderdale
 - ▶ City gives away trees to residents
 - ▶ Favored by King Conservation District
- ▶ Rebates
 - ▶ Used by Kirkland, Lima, Louisville, Riverside, and Vancouver
 - ▶ City refunds part of the purchase price for trees residents buy
- ▶ Vouchers
 - ▶ Used by Lynnwood, Riverside, and Tacoma
 - ▶ City distributes vouchers for free or discounted trees



Photo Credit: "Planting a tree" by amyfry2000 is licensed with CC BY-NC-SA 2.0.

Funding



- ▶ 1. Grants
 - ▶ Government agencies fund Kirkland and Louisville
- ▶ 2. Tree Code Violations
 - ▶ Arlington County and Fort Lauderdale are able to fund expensive programs through fees associated with tree removal
 - ▶ Fort Lauderdale: \$50,000 per year
 - ▶ Arlington County: \$250,000 per year
- ▶ 3. Utilities
 - ▶ Public Utilities provide the funding for programs, including Seattle's Trees for Neighborhoods giveaway and Tacoma's voucher program

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Staff Time

- ▶ 1. Giveaway Programs
 - ▶ 5-10 hours per week in Arlington County
 - ▶ Up to 240 hours a year in Fort Lauderdale
 - ▶ .8 FTE in Seattle
- ▶ 2. Rebate Programs
 - ▶ Up to 5 hours per week
- ▶ 3. Voucher Programs
 - ▶ Up to 12 hours per week during peak season
- ▶ **Reporting Time**
 - ▶ **Riverside requires a full month of full time work to create its annual report on the program.**
 - ▶ **Tacoma needs 80 hours to draft its annual report.**



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Partners

- ▶ Arbor Day Foundation
 - ▶ A nonprofit that works with cities to set up giveaway programs
 - ▶ Uses interactive technology to help homeowners locate the most strategic spot in their yards to plant trees to save money and reduce energy usage
 - ▶ Price based on what trees the city chooses and includes delivery, software, a website, reporting metrics, and staff support
 - ▶ Trees range from \$35 to \$60
- ▶ Beautify Bonney Lake
 - ▶ A hyper local nonprofit that works with the city of Bonney Lake on civic improvements.
 - ▶ Chair Todd Dale has offered to help Kenmore start its own such organization.

Recommendation Regarding Tree Subsidy Programs



- ▶ The KCD grant money should be used to operate a pilot tree giveaway program for planting season in 2022.
- ▶ After the 2022 program concludes, staff should evaluate the program in terms of staff time and resources that would be needed for it to become a permanent and ongoing program.
- ▶ It should also be considered in terms of the Climate Action Plan, like the exceptional tree ordinance.

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Thank you

- ▶ Thank you to the Council Members for your attention tonight.
- ▶ Thank you to City Manager Rob Karlinsey for this assignment.
- ▶ Thank you to city staff for their support in putting this project together.

- ▶ Questions?