

ORDINANCE O-4585

AN ORDINANCE OF THE CITY OF KIRKLAND, ESTABLISHING A MORATORIUM WITHIN THE HOLMES POINT OVERLAY ZONE ON THE REMOVAL OF SIGNIFICANT TREES ASSOCIATED WITH DEVELOPMENT ACTIVITY IN THE PUBLIC RIGHT OF WAY EXCEPT FOR ACTIONS UNDERTAKEN BY THE CITY OF KIRKLAND ON A CAPITAL IMPROVEMENT PROJECT, OR PUBLIC OR PRIVATE UTILITIES, OR TREES THAT ARE A SAFETY HAZARD OR PUBLIC NUISANCE, OR WHEN FAILURE TO ALLOW REMOVAL WOULD DENY ALL ECONOMICALLY VIABLE USE OF A SUBJECT PROPERTY.

1 WHEREAS, the City has the authority to adopt moratoria
2 pursuant to RCW 35A.63.220 and RCW 36.70A.390 and KMC 35.30.1;
3 and

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5 WHEREAS, there has been an increase in tree removal within
6 City right of way in the Holmes Point Overlay zone area in the Finn Hill
7 Neighborhood and the Finn Hill Neighborhood Alliance requests a
8 development moratorium be adopted to provide for additional tree
9 protection; and

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11 WHEREAS, these tree removals within City right of way
12 associated with development activity have an adverse impact on trees
13 in the Holmes Point Overlay zone and reduce tree canopy city wide; and

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15 WHEREAS, current City regulations in KZC 95.20, 95.21, 95.23,
16 95.30, 95.55 and KMC 19 establish the exemptions, allowances,
17 prohibitions, enforcement and penalties for tree removal with and
18 without development activity within City right of way.

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20 WHEREAS, the Holmes Point Overlay regulations contained in
21 KZC 70 support retention of significant trees within City right of way, in
22 addition to the tree retention requirements contained in KZC 95; and

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24 WHEREAS, a Finn Hill Neighborhood Plan is in the process of
25 being developed to better address impacts that tree removal associated
26 with development activity will have in the Holmes Point Overlay area
27 and the surrounding neighborhood, and is expected to be implemented
28 in late 2017 or early 2018; and

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30 WHEREAS, the City is currently undertaking studies and
31 considering amendments to development regulations in the Holmes
32 Point Overlay zone, and is planning to enact amendments to
33 development regulations in the Holmes Point Overlay zone in late 2017
34 or early 2018; and

35 WHEREAS, until permanent ordinances amending the
36 development regulations in the Holmes Point Overlay zone are adopted
37 and the Finn Hill Neighborhood Plan can be implemented, there is a
38 need to restrict the removal of trees in City right of way associated with
39 development activity; and
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41 WHEREAS, the City is concerned that if this moratorium is not
42 immediately enacted then many irreplaceable significant trees in the
43 City rights of way located in the Holmes Point Overlay zone will be lost
44 between now and when the new Holmes Point Overlay regulations are
45 planned to take effect; and
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47 WHEREAS, the Kirkland City Council has determined that there
48 is a need for greater tree retention in the Holmes Point Overlay zone;
49 and
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51 WHEREAS, the loss of too many significant trees in the Holmes
52 Point Overlay zone would affect not only tree canopy and wildlife
53 habitat, but could affect soil stability and create landslide and erosion
54 hazards; and
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56 WHEREAS, pursuant to RCW 35A.63.220 and RCW 36.70A.390,
57 a public hearing on the moratorium herein will be held within 60 days
58 of the adoption of this ordinance.
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60 NOW, THEREFORE, the City Council of the City of Kirkland do
61 ordain as follows:
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63 Section 1. Enactment of Moratorium. Removal of right of way
64 trees prohibited, with exceptions. Removal of significant trees from the
65 City right of way associated with development activity in the Holmes
66 Point Overlay zone is prohibited; provided, trees may be removed from
67 the right of way if a tree removal permit is first obtained and if failure
68 to remove the tree will result in one or more of the following
69 circumstances: inability to access the site via vehicles, pedestrians or
70 utilities; or failure to remove would deny all viable economic use of the
71 subject property; or failure to remove will result in a threat to the life,
72 health and/or safety of the public. Provided, this prohibition shall not
73 apply to work within the right of way, including tree removal, that is
74 exempt from permitting pursuant to KMC 29.12.010.
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76 Section 2. Public Hearing. Pursuant to RCW 35A.63.220, the
77 City Council shall hold a public hearing on this moratorium within sixty
78 (60) days of its adoption, or no later than September 16, 2017, to hear
79 and consider public comment. Following such hearing, the City Council
80 may adopt findings of fact and may extend the moratorium ordinance
81 for a period of up to six (6) months. If a period of more than six (6)
82 months is required to complete consideration of any changes in the

83 Holmes Point Overlay Zone then the Council may extend this
84 moratorium ordinance after any required public hearing, pursuant to
85 RCW 35A.63.220 and RCW 36.70A.390.

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87 Section 3. Public Emergency. The City Council hereby finds
88 and declares that a public emergency exists, and that this Ordinance is
89 necessary for the protection of the public health and safety and the
90 preservation of the character of surrounding neighborhoods.

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92 Section 4. Effective Date. In accordance with RCW
93 35A.63.220 and RCW 36.70A.390, this Ordinance shall take effect and
94 be in force immediately upon adoption.

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96 Section 5. If any provision of this Ordinance or its
97 application to any person or circumstance is held invalid, the remainder
98 of the ordinance or the application of the provision to other persons or
99 circumstances is not affected.

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101 Section 6. This ordinance shall be in force and effect
102 immediately from and after its passage by the Kirkland City Council and
103 publication pursuant to Section 1.08.017, Kirkland Municipal Code in the
104 summary form attached to the original of this ordinance and by this
105 reference approved by the City Council.

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107 Passed by majority plus one of the whole membership of the
108 Kirkland City Council in open meeting this 18th day of July, 2017.

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110 Signed in authentication thereof this 18th day of July, 2017.

Amy Walen, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:



Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4585

AN ORDINANCE OF THE CITY OF KIRKLAND, ESTABLISHING A MORATORIUM WITHIN THE HOLMES POINT OVERLAY ZONE ON THE REMOVAL OF SIGNIFICANT TREES ASSOCIATED WITH DEVELOPMENT ACTIVITY IN THE PUBLIC RIGHT OF WAY EXCEPT FOR ACTIONS UNDERTAKEN BY THE CITY OF KIRKLAND ON A CAPITAL IMPROVEMENT PROJECT, OR PUBLIC OR PRIVATE UTILITIES, OR TREES THAT ARE A SAFETY HAZARD OR PUBLIC NUISANCE, OR WHEN FAILURE TO ALLOW REMOVAL WOULD DENY ALL ECONOMICALLY VIABLE USE OF A SUBJECT PROPERTY.

SECTION 1. Provides for a moratorium on removal of right of way trees with exceptions.

SECTIONS 2-5. Describes that the ordinance shall be in effect immediately, the duration of the moratorium Ordinance shall be for sixty days, that it may be extended for six month following a public hearing to consider public comment, and if any provision of the ordinance is held invalid the remainder of the ordinance or application of the provision to persons or circumstances is not affected.

SECTION 6. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 18th day of July, 2017.

I certify that the foregoing is a summary of Ordinance O-4585 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk