AN ORDINANCE OF THE CITY OF KIRKLAND PROVIDING FOR DISESTABLISHMENT OF THE KIRKLAND DOWNTOWN BUSINESS IMPROVEMENT AREA ESTABLISHED BY ORDINANCE NO. 3128 EFFECTIVE DECEMBER 31, 1992 AND ADOPTING A PROGRAM TO WIND-UP THE AFFAIRS OF THE BUSINESS IMPROVEMENT AREA ALL PURSUANT TO RCW CHAPTER 35.87A.

Whereas, the Kirkland Downtown Association [KDA] as contract administrator for the Kirkland Downtown Business Improvement Area (established by Ordinance No. 3128 as amended) has recommended to the City Council the disestablishment of the Business Improvement Area [BIA] effective December 31, 1992 and

Whereas, the City Council by Resolution No. R3750 declared its intention to disestablish the BIA and set a date for public hearing thereon to be held July 21, 1992 all as required by and pursuant to RCW Chapter 35.87A.180 and

Whereas, following said public hearing held July 21, 1992 the City Council finds that the disestablishment and orderly winding up of the affairs of the BIA is in the public interest and in the interest of the business owners within the BIA

Now, therefore, be it ordained by the City Council of the City of Kirkland as follows:

Section 1. BIA Disestablished. The Business Improvement Area established by Ordinance No. 3128 and thereafter enlarged by Ordinance No. 3231 is hereby disestablished and shall cease to exist effective December 31, 1992.

Section 2. Program to Wind-Up Affairs of BIA. Pursuant to RCW 35.87A.190 the City Council hereby adopts the following program for the orderly wind-up of the affairs of the BIA upon its disestablishment, including disposition of all Business Improvement Area assets and liabilities:

2.1 No abatement of Levied Assessments. Notwithstanding disesta-

blishment, all assessments levied by the BIA for the years 1989, 1990, 1991 and 1992 which remain unpaid and delinquent, as of December 31, 1992, the effective date of disestablishment, shall remain as assessment obligations of the businesses located within the Business Improvement Area boundaries upon which such assessments were levied. The City shall continue to take all reasonable and necessary steps to collect all such outstanding unpaid and delinquent assessments, including assessment installments. All monies so collected shall be deposited into the Business Improvement Area fund which shall remain a special fund of the City until such time as the City Council may adopt the Resolution provided for in subsection 2.7 below.

2.2 <u>Termination of KDA Contract</u>. The contract between the City of Kirkland and the Kirkland Downtown Association, Inc. to administer the BIA program, shall terminate as of the effective date of disestablishment of the BIA and any BIA program income or other BIA monies, if any then held by the KDA or which may thereafter come into the possession of the KDA, shall forthwith be turned over to the City for deposit into the BIA fund. All books and records reflecting use of BIA funds as well as any items of property purchased by BIA funds in the hands of the KDA shall be turned over to the possession of the City of Kirkland. The obligation of the KDA to provide, upon request, additional accounting and other information related to BIA funds and programs including program expenditures and program income to the City shall survive the termination of the contract in order that the affairs of the BIA may be properly wound up.

2.3 <u>Cessation of BIA Programs</u>. In anticipation of the disestablishment of the BIA, all BIA programs and program activities shall be completed on or before December 31, 1992.

2.4 <u>Notice to Creditors</u>. Any creditor of the Business Improvement Area or its authorized programs shall within sixty days of the effective date of

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disestablishment, file with the City a creditor's claim or invoice setting forth the amount claimed to be due and the basis for which such amount is a proper charge or debt against the Business Improvement Area or the BIA fund.

2.5 <u>Payment of Liabilities</u>. Within 360 days from the date of disestablishment, from monies on deposit in the BIA fund, the City shall pay all liabilities or debts lawfully owed by the BIA to the extent of monies available within said fund. In the event the then balance in the Business Improvement Area fund is insufficient to fully pay all such liabilities and debts, then the Director of Administration and Finance shall make partial pro-rated payments thereon. Pursuant to RCW 35.87A.190 no liability or debt of the BIA shall be paid from or be an obligation of any other fund of the City, including the current expense or general fund.

2.6 <u>Distribution of BIA Fund Balance upon Completion of Winding Up the Affairs of the BIA</u>. All monies in the BIA fund over and above those necessary for payment of BIA obligations shall remain in said fund to be appropriated by the City Council during its normal budget appropriation process for decoration or beautification amenities for the public places within the area of the BIA as it existed prior to its termination.

2.7 Upon completion of all steps set forth in subsections 2.1 through 2.6 inclusive, the affairs of the BIA shall be deemed to be complete and a report to that effect shall be made by the Director of Administration and Finance to the City Council who shall consider said report and if satisfied, adopt a resolution declaring the winding up of affairs of said BIA to be completed.

<u>Section 3</u>. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.
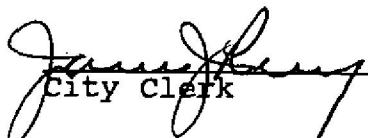
Section 4. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 21st day of ___July___, 1992.

Signed in authentication thereof this 21st day of ___July___, 1992.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

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