

ORDINANCE 3865

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SIGNIFICANT TREES, ADOPTING RESTRICTIONS ON REMOVAL OF PERIMETER TREES, ESTABLISHING PENALTIES FOR REMOVAL OF SIGNIFICANT TREES AND MODIFYING PORTIONS OF KIRKLAND ZONING CODE SECTIONS 115.75.3(k) and 95.15.

WHEREAS, the City has the authority to adopt an interim zoning ordinance pursuant to RCW 35A.63.220; and

WHEREAS, the Kirkland City Council has determined that there is a need for an interim zoning ordinance to regulate the removal of significant trees; and

WHEREAS, pursuant to RCW 35A.63.220 a public hearing on this interim Ordinance was held prior to the adoption of this Ordinance.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. The Kirkland City Council makes the following findings:

a. The purpose of this Ordinance is to increase protection for significant trees, as defined in Section 5.860 of the Kirkland Zoning Code.

b. Significant trees protect the general welfare of the City by (1) increasing air quality by absorbing air pollutants, assimilating carbon dioxide and generating oxygen; (2) minimizing surface water runoff, soil erosion, land instability, sedimentation and pollution of waterways; (3) protecting against severe weather effects; (4) providing habitat, cover and food supply for fish and wildlife; and (5) contributing to the City's natural beauty and livability.

c. The City's goal is to ensure that there is sufficient protection for significant trees and that the value and benefit of significant trees are reflected in the City's ordinances and regulations.

d. The City is currently implementing a work plan to develop zoning code amendments that specifically addresses significant trees; and

e. Until a new, permanent Ordinance regarding significant trees can be implemented, there is a need for an interim ordinance that provides increased protection for significant trees.

Section 2. Terms used in this Ordinance shall have the following meanings:

(a) "Hazard tree" is any tree with structural defects, disease, or both, which makes it subject to a high probability of failure in the opinion of a qualified professional retained or approved by the City.

(b) "Nuisance tree" is a tree which is causing physical damage to property or has been damaged by past maintenance practices, and for which accepted arboricultural practices cannot correct the problem.

(c) "Perimeter Tree" is any viable, significant tree, any portion of the trunk of which is located within 10 feet of a property line.

Section 3. No person may remove more than two significant trees from any lot in any one year period regardless of the size of the lot, provided that this restriction does not apply to hazard trees or nuisance trees. The City shall not grant a request to modify or deviate from the provisions of this Section pursuant to Kirkland Zoning Code Section 115.75.3(k)(4).

Section 4. Any applicant required to comply with Chapter 95 of the Kirkland Zoning Code must, in addition, comply with the provisions of this Section. An applicant must retain all perimeter trees that are not hazard trees or nuisance trees; provided that areas where structures will be located, areas required for access and areas to be cleared for required roads, utilities, sidewalks, trails or storm drainage improvements are exempt from this requirement.

Section 5. The City may enforce any violations of the provisions of this Ordinance in the manner set forth in Kirkland Zoning Code Sections 170.20 through 170.42; provided that each significant tree removed shall constitute a separate violation for the purpose of assessing penalties under Kirkland Zoning Code Section 170.25.2; and provided further that the amount of the monetary penalty per day for violations are as follows: (1) First violation: \$200.00; (2) Second violation: \$400.00 (3) Third violation: \$600.00. Violations shall be deemed to be continuing in nature until the area where the violations occurred is fully restored to the satisfaction of the City; provided that the City, in its discretion, may suspend the accrual of daily penalties if the property owner is actively and diligently implementing a City-approved restoration plan. When taking enforcement action under this Ordinance, the City's primary goal, if feasible, shall be full restoration of the area where the violation occurred. The costs of restoration shall not be more than the appraised value of the significant trees removed, according to the most recent edition of the Guide for Plant Appraisal.

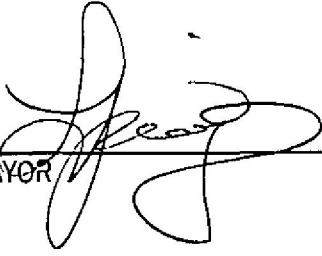
Section 6. This Ordinance shall go into effect as an interim zoning ordinance and shall be effective for six months and thereafter may be renewed for one or more six month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 7. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 8. 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.

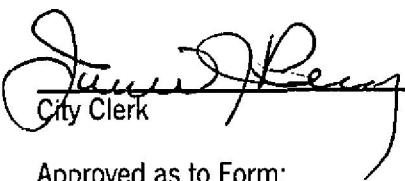
Passed by majority vote of the Kirkland City Council in open meeting
this 19th day of November, 2002.

Signed in authentication thereof this 19th day of
November, 2002.



MAYOR

Attest:



City Clerk

Approved as to Form:



City Attorney