

ORDINANCE 3891

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STREET TREES AND AMENDING CHAPTER 19.36 OF THE KIRKLAND MUNICIPAL CODE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 19.36.020 of the Kirkland Municipal Code is hereby amended to read as follows:

19.36.020 Definitions.

Terms used in this title 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) "Street tree" is a tree located within the street right-of-way, provided that if the trunk of the tree straddles the boundary line of the street right-of-way and the abutting property, it shall be considered to be on the abutting property and subject to the provisions of the Kirkland Zoning Code.

Section 2. Section 19.36.030 of the Kirkland Municipal Code is hereby amended to read as follows:

19.36.030 ~~Removal or a~~Alteration of street trees without prior approval is prohibited.

Routine maintenance of street trees is the responsibility of the abutting property owner except in the city's central business district (CBD) zones and in any other specific right-of-way that may be identified by the city. Except for routine maintenance, it is unlawful for any person to ~~remove~~, prune, trim, modify, alter or damage a street tree without the prior approval of the director of public works or his or her designee; provided, that the city and utility crews may perform routine pruning and maintenance of street trees; and provided further, that an abutting property owner may perform routine pruning and maintenance in accordance with any landscape maintenance agreement or contract with the city. ~~Permission~~ An application to prune, trim, modify or alter a street tree shall be granted only if the proposed action will improve the health and appearance of the tree. ~~Permission~~ An application to prune, trim, modify or alter a street tree shall not be granted if the sole or primary purpose of the proposed action is view enhancement. ~~An application to remove a street tree shall be granted only in cases where the tree constitutes a "hazard tree" or a "nuisance tree" as defined in this chapter.~~

Section 3. A new Kirkland Municipal Code Section 19.36.035 is hereby adopted to read as follows:

19.36.035 Standards and criteria for approval to remove street tree.

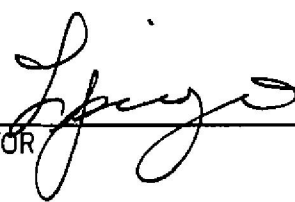
An abutting property owner may apply for permission to remove a street tree by filing a written application with the department of public works. An application to remove a street tree shall be reviewed by the director of public works, or his or her designee. The director shall consider the following factors in determining whether to grant or deny the application: (1) whether the tree is a hazard tree or nuisance tree; (2) the location of the tree in the right of way; (3) the size and type of tree and whether it constitutes a "significant tree" as defined in the Kirkland Zoning Code; (4) whether the tree is now, or may be in the future, part of the City's plans for the right of way; (5) whether the property owner is willing to mitigate the consequences of removal of the tree by planting a new tree or trees in a more suitable location; and (6) any other factor that the director deems relevant or appropriate. Any failure by the applicant or his or her agents to adhere to conditions imposed on tree removal by the City under this chapter shall constitute a violation of this chapter and is subject to enforcement under this chapter.

Section 4. 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 5. 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 20th day of May, 2003.

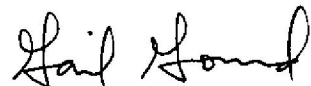
Signed in authentication thereof this 20th day of May, 2003.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

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