

ORDINANCE NO. 114

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING THE ZONING CODE, ADOPTED BY ORDINANCE NO. 79, AS AMENDED, TO AMEND SECTION __.35.030, LANDSCAPING AND BUFFERING, TO ADD ENFORCEMENT AND PENALTY PROVISIONS, AND SECTIONS __.35.030(J)(2) AND __.35.030(J)(4) DEALING WITH SIGNIFICANT TREES RETENTION, AND AMENDING THE SITE DEVELOPMENT REGULATIONS, ADOPTED BY ORDINANCE NO. 62, TO ADD A DEFINITION OF CLEARING AND TO AMEND CHAPTER 1.02, EXEMPTIONS, TO SET A 12-MONTH TIME LIMIT FOR THE CLEARING AND GRADING OF LAND LESS THAN 20,000 SQUARE FEET AND BY PRESCRIBING PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, members of the City Council were concerned with the adequacy of the City's tree management regulations and referred the matter to the Planning Commission for consideration; and

WHEREAS, the Planning Commission held a public hearing on June 19, 1996 and recommended that the City not create more stringent regulations which adversely impact single family property owners; and

WHEREAS, the City Council held a public hearing on July 15, 1996 to consider the Planning Commission recommendation and various options for modifying the existing language of the zoning code and site development regulations; and

WHEREAS, the Council held a study session on August 26 and a public hearing on September 3 to consider limited changes to the Zoning and Site Development regulations to establish a time limit for clearing and to strengthen the penalties for violation of existing tree cutting regulations; NOW THEREFORE

Section 1. Amending Section __.35.030, Landscaping and Buffering, of The University Place Zoning Code.

Section __.35.030, Landscaping and Buffering, of The University Place Zoning Code, is hereby amended to add new paragraph __35.030(R) as follows:

__.35.030 LANDSCAPING AND BUFFERING

R. Enforcement and Penalties

In addition to any other sanction or penalty or any remedial or administrative procedure available under the University Place Code or state law, for a violation of any provision of this Section or

failure to comply with any permit or other written order or decision issue pursuant to this Section a monetary penalty shall be assessed that is the greater of:

1. Five hundred dollars for each tree cleared, cut, damaged or removed, or for each act of clearing, cutting, damaging, or removing vegetation; or
2. Triple the value of each tree cleared, cut, damaged or removed, or of the vegetation cleared, cut, damaged, or removed. The value to be the replacement value as determined under the methods described in the Guild for Establishing Value of Trees and Other Plants, published by the International Society of Arboriculture, most current edition;
3. An amount reasonably determined by the Director to be equivalent to the economic benefit that the violator derives from the violation as measured by the greater of the resulting increase in market value of the property or the value received by the violator, or savings of construction costs realized by the violator.

Section 2. Amending Section .35.030(J)(2), of the University Place Zoning Code.

Section .35.030(J)(2), of the University Place Zoning Code, Significant Trees - Retention Required, is hereby amended as follows:

2. Significant Trees - Retention Required. Except as provided in Section 7 below, significant trees shall be retained in all residential, commercial, industrial or institutional developments as follows:
 - a. Significant tree preservation shall be required in conjunction with ~~at any time an application for a site development permit, building permit, short subdivision, or subdivision. is required.~~
 - b. All significant trees located within any required perimeter landscaping area shall be retained;
 - c. Fifty percent (50%) of the significant trees located in the interior of the lot, excluding sensitive areas or their buffers, shall be retained in apartment, townhome, new residential, or institutional developments;
 - d. Ten percent (10%) of the significant trees located in the interior of the lot, excluding sensitive areas or their buffers, shall be retained in commercial, utility, or industrial developments;
 - e. If significant trees were previously located in a closed, forested situation, a registered landscape architect shall determine if a tree has a significant chance of toppling in high winds, and whether a buffer of smaller trees, retained or replaced on the fringe of such significant trees would reduce the risk of toppling.

f. A grouping of three or more existing trees with canopies that touch or overlap, may be substituted for each required significant tree, provided each tree has a diameter of at least three inches when measured four feet above grade;

g. Except as provided in subsection h, significant trees to be retained shall not include significant trees that, following inspection by a registered landscape architect, certified nursery professional, ~~or certified arborist~~, or certified forester are determined to be:

1. Damaged or diseased,

2. Safety hazards due to potential root, trunk or primary limb failure, or exposure of mature trees which have grown in a closed, forested situation;

h. At the discretion of the City, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement, if demonstrated that such trees will provide important wildlife habitat and are not classified as danger trees.

Section 3. Amending Section .35.030(J)(4), of the University Place Zoning Code.

Section .35.030(J)(4), of the University Place Zoning Code, Significant Trees - Retention Plan, is hereby amended to read as follows:

4. Significant Trees - Retention Plan. The applicant shall submit a tree retention plan concurrent with an application for a ~~grading site development permit, building permit or preliminary subdivision, or short subdivision application, whichever is submitted~~ reviewed and/or approved first. The tree retention plan shall consist of:

a. A tree survey that identifies the location, size and species of all significant trees on a site. The tree survey may be conducted by a method that locates individual significant trees or by using standard timber cruising methods to reflect general locations, numbers and grouping of significant trees provided that, when using either method, the survey:

1. Shall also show the location and species of each significant tree that is intended to qualify for additional credit pursuant to Section 5 below, and

2. Any tree 18 inches or greater diameter for the purpose of establishing wildlife habitat value;

b. A development plan identifying the significant trees that are proposed to be retained, transplanted or restored.

Section 4. Amending Chapter 2, Definitions, of the University Place Site Development Regulations.

Chapter 2, Definitions, of the University Place Site Development Regulations, is hereby amended to add a definition for "Clearing" as follows:

2. Definitions

Clearing: The cutting, moving on site, or removal of standing or fallen timber (including stumps); the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the soil surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved Forest Practices Application/notification issued by the Department of Natural Resources.

Section 5. Amending Chapter 1.02(C), Exemptions, of the University Place Site Development Regulations.

Chapter 1.02(C), Exemptions, of the University Place Site Development Regulations, is hereby amended as follows:

1.02 Exemptions

C. Cutting and Clearing and/or grubbing of a parcel or adjacent parcels in single ownership of land or a portion thereof less than 20,000 square feet within any 12-month period except as specified in Section 3.08. and except in sensitive areas.


Section 6. Severability.

If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 7. Publication and Effective Date.

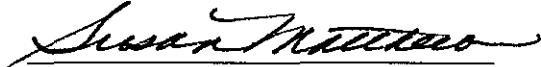
A summary of this Ordinance consisting of its title shall be published in the official newspaper of the city. This ordinance shall take effect five days after publication .

PASSED BY THE CITY COUNCIL ON SEPTEMBER 3, 1996.



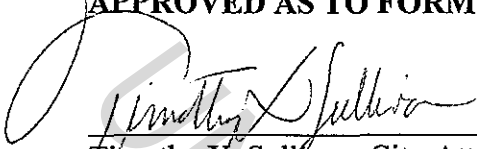
Ronald L. Williams, Mayor

ATTEST:



Susan Matthew, City Clerk

APPROVED AS TO FORM:



Timothy X. Sullivan, City Attorney

Date of Publication: September 5, 1996

Effective Date: September 10, 1996