

**TOWN OF BEAUX ARTS VILLAGE
ORDINANCE NO. 350**

AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON
IMPOSING A MORATORIUM ON THE TOPPING OR REMOVAL OF TREES
ON PRIVATE PROPERTY IN THE TOWN OF BEAUX ARTS VILLAGE.

WHEREAS, the Town of Beaux Arts Village (“Town”) is fortunate to be sited among a large number of trees; and

WHEREAS, the trees provide stability to slopes, help control runoff into Lake Washington, and provide natural beauty to the Town; and

WHEREAS, trees on the public right-of-way and other public property are protected by state statute; and

WHEREAS, the Council of the Town wishes to review, evaluate, and determine the need for the regulation of trees on private property without the threat of significant topping or removal of trees during the evaluation period; and

WHEREAS, on November 14, 2006, the Council imposed an emergency moratorium as allowed by RCW 35.63.200, which authorizes towns to adopt emergency moratoria provided that a public hearing is held within sixty (60) days of adoption; and

WHEREAS, the Town held a public hearing within 60 days at a regular meeting of the Council on January 9, 2007 to give residents ample opportunity to comment on the proposed continuation of the moratorium; and

WHEREAS, the Council believes, as a result of that public hearing, that it is prudent to continue the moratorium for a period not to exceed nine (9) months; and

WHEREAS, the Town Council plans to use this time to study the topping or removal of trees and may develop regulations or guidelines to manage trees on private property; and

WHEREAS, the Planning Commission must review and make recommendation to the Council on any proposed regulations before the Council can act on said regulations, because these regulations may affect land use; and

WHEREAS, the Council has developed a work plan for completing this work and enacting any regulations that it determines are needed; and

WHEREAS, the Council recognizes that during this moratorium there may be a need to remove trees on private property when same creates an immediate and imminent danger to persons or property; **NOW THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON, AS FOLLOWS:

Section 1. Moratorium extended. The Council of the Town of Beaux Arts Village hereby extends the moratorium upon the topping or removal of any tree with a diameter in excess of eight inches measured at any point on the trunk and located on private property (“Protected Tree”) in the Town of Beaux Arts Village.

Section 2. Exceptions. A protected tree may be removed only under one of the following exceptions:

2.1 The removal is necessary to remedy an immediate and imminent danger to persons or property; or

2.2. The tree poses a danger to persons or property as shown by a report written by a certified arborist and filed with the Town Clerk, and the removal is approved in writing by the Building Official or his/her representative; or

2.3. An applicant for a building permit demonstrates to the Board of Adjustment that:

2.3.1 Waiting for this moratorium to expire creates hardship for the applicant;

2.3.2 An exception is necessary because of circumstances relating to the size, shape, topography, location, surroundings, and features of the applicant’s property; and

2.3.3 The exception is reasonably necessary to relieve the demonstrated hardship.

Section 3. Penalty. The penalty for topping, intentionally damaging or removing a protected tree shall be a fine of \$2,500 per tree plus the cost to enforce collection of this fine and the cost of replacing the affected tree with a similar tree.

Section 4. Duration. This moratorium shall be in effect for nine (9) months and shall expire on October 13, 2007.

Section 5. Work Plan. During the moratorium, the following work shall take place.

5.1 The Council will study the topping or removal of trees and evaluate the need for regulations or guidelines for managing trees on private property by doing the following:

5.1.1 Reviewing the regulations in force in similar communities in the region.

5.1.2 Discussing those regulations and the procedures used to enforce them with officials or staff of those communities.

5.1.3 Determining which regulations, if any, may be needed in the Town based on these discussions and personal observations.

5.1.4 Evaluating the unintended consequences that may result from the enactment of any proposed regulations.

5.1.4 Establishing the need, costs, and benefits of any proposed regulations.

5.2 The Council may choose to form an ad hoc committee to assist in any or all of the tasks listed in 5.1.1 through 5.1.5.

5.3 The Council will forward a draft of these regulations to the Planning Commission for review at a public hearing . After completing this review, the Planning Commission will forward a recommendation to the Council regarding the proposed regulations, including any proposed revisions.

5.4 The Council will review the Planning Commission recommendation and any proposed revisions at a final public hearing prior to enacting the regulations described here.

Section 6. Recitals and Findings of fact Incorporated. The recitals set forth on page 1 of this Ordinance are incorporated herein as though fully set forth herein and shall serve as Findings of Fact. The Town Council may amend such findings in whole or in part and adopt additional findings following a public hearing.

Section 8. Severability and Validity. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases subsequently may be found by competent authority to be unconstitutional or invalid.

Section 9. Effective Date. Based on the recitals and findings of facts set forth herein, this ordinance shall constitute a public emergency ordinance necessary for the protection of public health, safety, property and/or peace and shall become effective upon passage and approval.

PASSED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE on the 13th day of February, 2007.

APPROVED BY THE MAYOR OF THE TOWN OF BEAUX ARTS VILLAGE on the 13th day of February, 2007.

Judee Wells, Mayor

ATTEST:

APPROVED AS TO FORM:

Sue Ann Spens, Clerk-Treasurer

Wayne Stewart, Town Attorney

I certify that copies of the above ordinance were posted as required by law in the Town of Beaux Arts Village, Washington, on the ____th day of _____, 2007.

Sue Ann Spens
Clerk-Treasurer