AN ORDINANCE of the City Council of the City of Kent, Washington relating to the maintenance, trimming, removal or destruction of vegetation and weeds on private property and adjoining planting strips and alleys as the same constitutes a fire, health or safety hazard; providing civil penalties, and abatement; amending K.C.C. by the addition of a new chapter 8.07.

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. There shall be a new chapter added to the Kent City Code, Title 8, which shall read as follows:

CHAPTER 8.07
WEEDS AND VEGETATION

8.07.010. Short Title and Purpose.
A. This ordinance shall be known and may be cited as the "Weeds and Vegetation Ordinance" of the City of Kent. The general purpose of the ordinance is to exercise the City's police power for the benefit of the public health, safety and welfare; to provide enforcement mechanisms and the abatement and collection of abatement expenses by the City, and to these ends the ordinance shall be liberally construed.

B. This ordinance shall be enforced for the benefit of the health, safety and welfare of the general public, not for the benefit of any particular person or class of persons.
C. It is the intent of this ordinance to place the obligation of complying with its requirements upon the owner or occupier of the land and buildings within the scope of this ordinance. No provision or term used in this ordinance is intended to impose any duty upon the City or any of its officers, officials and employees which would subject them to damages in a civil action.


Definitions used in this ordinance shall have the following meanings, unless an additional meaning clearly appears from the context.

A. "Alley" means a public way, paved or unpaved, which is intended to provide or which provides a roadway for vehicular and pedestrian access to abutting properties and is generally located to the rear or side of those properties, but not including such a public way in its natural and undeveloped state which cannot be used by vehicles.

B. "Director" means the Director of Public Works or his or her designee or any designated alternate who is empowered by ordinance or by the Mayor to enforce this chapter including assigned code enforcement officials.

C. "Fire Hazard" means vegetation which is dry and combustible, including but not limited to weeds, grass or clippings, dead bushes or trees or their parts, and other combustible vegetative materials.

D. "Health Hazard" means vegetation or refuse providing a harborage for rats or other rodents (excluding chipmunks and squirrels), rodent runs and habitats; vegetation which is poisonous or noxious, including but not limited to poison ivy, poison oak, poison hemlock, poison sumac and nightshade; vegetation which
creates a danger of contamination or disease; and vegetation which is infested with caterpillars or other horticultural pests.

E. "Occupant" means any person occupying or having possession of property or any portion thereof.

F. "Owner" means any person who, alone or with others, has title or interest in property with or without accompanying actual possession thereof, and including any person who as agent, or as executor, administrator, trustee or guardian of an estate, has charge, care or control of any property.

G. "Person" means any individual, partnership, corporation, trust, unincorporated or incorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

H. "Planting strip" means that part of a street right-of-way between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

I. "Property" means a specific parcel or parcels, platted or unplatted, of land or real estate.

J. "Public right of way" means any alley, street, planting strip and public way, including sidewalks, utilized for and related to pedestrians and vehicular traffic.

K. "Safety Hazard" means vegetation which creates a defective condition on any street, sidewalk, or alley as set forth in Kent City Code 6.04.100(3) and (4) or vegetation which overhangs the street, sidewalk, or alley in such a way as to impede the free and full use of the street, sidewalk, or alley, and vegetation which obstructs the vision of drivers such that traffic regulation signs or the view of oncoming traffic is obstructed at a distance of fifteen feet or closer from the edge of the pavement or curb, and vegetation which creates injury to or the opportunity or risk for injury to passersby or the general public.
L. "Sidewalk" means that property between the curb lines or the lateral lines of a street and the adjacent property, set aside and intended for the use of pedestrians.

M. "Street" means a public right of way, used for public travel.

N. "Vegetation" means trees, shrubs, grass, weeds, bushes, vines, and other plant materials, including but not limited to clippings, fallen leaves, fruit or branches.


The following conditions are hereby declared nuisances within the City of Kent:

A. Vegetation constituting a fire hazard;
B. Vegetation constituting a health hazard;
C. Vegetation constituting a safety hazard.

8.07.040. Exemptions.

The following are exempt from the application of this chapter:

A. Official city street trees as set forth in Kent City Code Chapter 6.10.
B. Wetlands, critical areas and natural resource lands designated or to be designated for protection under the Kent City Code pursuant to the Growth Management Act, Chapter 36.70A of the Revised Code of Washington.

8.07.050. Duties of Owners and Occupants.

A. Subject to subsection (C) below, it is the duty of the owner of property and of any occupant of the property wherein or whereon any nuisance exists to abate the nuisance by destroying, removing or trimming vegetation, and removing or destroying any
health, safety or fire hazard and to remove all shrubs, bushes, trees or vegetation growing or which has grown and died which is a fire hazard or is infested with caterpillars or other horticultural pests, or which otherwise constitute a menace to the public health, safety or welfare.

B. In addition to the duties the owner or occupant may have to abate nuisances, subject to subsection (C) below, the owner or occupant of property shall:
   1. Remove vegetation in or on an abutting sidewalk;
   2. Destroy, remove or trim vegetation or parts thereof on the property, and which are also overhanging any public place at a distance of less than eight feet (8') measured vertically from any point on the sidewalk.
   3. Destroy, remove or trim vegetation or any parts thereof on the property or on adjacent planting strips, which encroaches on or overhangs the traveled portion of the street or alley within sixteen and one-half feet (16.5') measured vertically from any point on the street or alley.
   4. Remove all grass and weeds attaining a height of six (6) inches, except on property zoned agricultural, and all shrubs, bushes, trees or vegetation growing or which has grown and died which is a fire hazard or is infested with caterpillars or other horticultural pests, or which otherwise constitute a menace to the public health, safety or welfare.
   5. Remove vegetation found on adjacent planting strips constituting a public nuisance as defined in Section 8.07.030.

C. Tree Removal. No person shall remove any trees situated upon a public right of way pursuant to this section,
8.07.050, without first obtaining a permit in accordance with Section 8.07.090.

8.07.060. Enforcement.

It shall be the duty of the director to enforce this ordinance. The director may call upon the police, fire, health or other appropriate City departments to assist in enforcement. The director shall adopt such rules as are necessary for the administration of this ordinance.

8.07.070. Right of Entry.

Upon presentation of the proper credentials, the director or duly authorized representative may, with the consent of the owner or occupier of a building or the premises, or pursuant to a lawfully issued warrant, enter at reasonable times any property subject to the consent or warrant to perform the duties imposed by this chapter.

8.07.080. Violation - Penalty.

A. Any violation of any provision of this chapter constitutes a civil violation under Kent City Code Chapter 1.04 for which a monetary penalty may be assessed and abatement may be required as provided therein.

B. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor pursuant to Section 1.01.140 of the Kent City Code.
8.07.090. Permit Required - Tree Removal.

A. Any person desiring to remove any tree on a public right of way, including undeveloped and/or unopened public rights of way not currently used for pedestrian or vehicular traffic, shall make application in writing to the director for a permit to do so. A permit may be issued only when:

1. The tree constitutes a fire, safety and/or health hazard as defined in this chapter; and

2. The applicant has executed a hold harmless agreement in a form satisfactory to the director, indemnifying the City from claims as a result of applicant's removal of said tree.

B. The provisions of this chapter do not preclude the City from removing or maintaining any vegetation, including trees, in public rights of way if it deems it appropriate to do so and no such action will create an obligation on the City to maintain such vegetation.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall take effect and be in force thirty (30) days from the time of its final approval and passage as provided by law.

DAN KELLEHER, MAYOR
I hereby certify that this is a true and correct copy of Ordinance No. 3113, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK