

**TOWN OF YARROW POINT  
ORDINANCE NO. 725**

**AN ORDINANCE OF THE TOWN OF YARROW POINT,  
WASHINGTON, AUTHORIZING AND IMPLEMENTING TOWN PLANS  
FOR ENHANCED PEDESTRIAN WALKWAY AND RELATED USES OF  
SALLY'S ALLEY (NE 38<sup>TH</sup> STREET); RESTRICTING AUTOMOTIVE  
USES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN  
EFFECTIVE DATE**

**WHEREAS**, Sally's Alley is a dedicated Town of Yarrow Point (Town) right-of-way created in the 1907 Original Plat and 1913 Replat of Portions of Yarrow (King County Rec. No. 866399), and the 1957 Top O' Yarrow Plat (King County Rec. No. 4842310), and is formally designated NE 38<sup>th</sup> Street (all collectively comprising and referred to herein as Sally's Alley); and

**WHEREAS**, the Town holds legal, dedicated, binding and perpetual ownership of Sally's Alley to be used for "right-of-way purposes" and "public uses not inconsistent therewith"; and

**WHEREAS**, there is longstanding legal authority in Washington that pedestrian and park uses are permissible public uses of right-of-way that are dedicated in the manner described above; and

**WHEREAS**, the Town's adoption of such uses are perpetually subject to the Town's later right to alter, change, modify, remove and replace such uses consistent with the underlying dedications, including use by vehicular or other traffic as the Town may then determine necessary, desirable or appropriate; and

**WHEREAS**, Sally's Alley has not been formally opened or paved for vehicular use, serving instead as a longstanding Town right-of-way for pedestrian use; and

**WHEREAS**, Sally's Alley is included in the Yarrow Point Trails Master Plan (2013) where it is identified as an important historic pedestrian feature of the Town and a key element of the Yarrow Point Trail system; and

**WHEREAS**, Sally's Alley is included in the Yarrow Point Comprehensive Plan (2015) where it is identified as a public trail, Town right-of-way and public space; and

**WHEREAS**, Sally's Alley is referenced directly and indirectly in the Yarrow Point Municipal Code (YPMC) in connection with the Town's right-of-way regulations (YPMC Ch. 12.24) and Traffic Code (YPMC Ch. 10.04 and Ch. 10.08); and

**WHEREAS**, the Yarrow Point Town Council (Council) directed the Yarrow Point Park Board (Park Board) to begin a process in 2021 to design and adopt a plan to enhance the pedestrian, trail, and park functions of Sally's Alley, including its public health contributions and its public benefits, and to create a more inviting, useable and functional trail, park and open space within the Town for use by residents and visitors; and

**WHEREAS**, under the direction of the Town Engineer and Town Planner, Sally's Alley was surveyed, title reports of adjoining properties were obtained, and the legal boundaries and corners of Sally's Alley were staked for ease of identification; and

**WHEREAS**, said survey identified various encroachments into and uses of Sally's Alley made by adjoining properties; and

**WHEREAS**, the 95<sup>th</sup> Avenue NE right-of-way abuts the eastern end of Sally's Alley and comprises a continuation of and serves as an access point to and from Sally's Alley; and

**WHEREAS**, the southernmost 85 feet of the 95<sup>th</sup> Avenue NE right-of-way begins at approximately the southeast lot corner of property addressed as 3811 95<sup>th</sup> Avenue NE and continues south to the termination of the 95<sup>th</sup> Avenue NE right-of-way; and

**WHEREAS**, under the foregoing facts and authorities the Town may regulate and require limitation, cessation and/or removal of encroachments and unpermitted or inconsistent uses of Sally's Alley; and

**WHEREAS**, under the foregoing facts and authorities the Town finds it to be in the public interest that Sally's Alley be improved and altered for the purpose of implementing public policies through Town-planned and approved enhancements of the pedestrian and park attributes of Sally's Alley and as further described herein;

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YARROW POINT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Findings.** The recitals set forth above are adopted by the Council as nonexclusive findings of fact and law in support of the Council's intent and actions identified, authorized and taken herein.

**Section 2. Plan Authorization.** The Park Board is directed and authorized to continue and complete its plan for modifications and uses of, and enhancements to, Sally's Alley, and directed to regularly report to the Mayor and Council on the status thereof or as may be requested. The Council must approve and authorize funding prior to implementation. The Council directs that the Town's Trails Master Plan and Comprehensive Plan shall be updated and shall reflect and incorporate the Park Board plan for Sally's Alley.

**Section 3. Restriction of Vehicular Use.** To facilitate and provide direction to the Park Board plan, Sally's Alley, the southernmost 85 feet of the 95<sup>th</sup> Avenue NE right-of-way, and that portion of the NE 38<sup>th</sup> Street right-of-way lying between the western boundary of the 95<sup>th</sup> Avenue NE right-of-way and the eastern boundary of the 94<sup>th</sup> Avenue NE right-of-way shall hereafter be closed to vehicular uses except for the following: (i) Town maintenance and service vehicles as needed, (ii) police, fire and other emergency vehicles as needed, and (iii) any use of Sally's Alley that is formally approved by the Town in accordance with the requirements of YPMC Chapter 12.24 as now or hereafter amended and other applicable Town regulations.

**Section 4. Cessation of Existing Uses and Encroachments.** To facilitate the Park Board plan and to restore Sally's Alley to Town control, the Mayor will work with Town staff to eliminate, remove, and/or obtain the timely cessation of all encroachments into and nonpermitted vehicular uses of Sally's Alley and the areas described in Section 3 above.

**Section 5. Enforcement.** The Mayor and Town Attorney shall review the YPMC, including Ch. 12.24, Ch. 10.04, and Ch. 10.08, and propose to the Council any changes needed to facilitate implementation of this Ordinance.

**Section 6. Future Redesignation.** The Council retains and does not waive its ability nor its authority to review and alter any and all vehicular and other uses and restrictions applicable to Sally's Alley as the Council may then determine to be appropriate or warranted.

**Section 7. Severability.** If any section, subsection, sentence, clause, phrase or word 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, subsection, sentence, clause, phrase or word of this Ordinance.

**Section 8. Effective Date.** This Ordinance shall be in force and effect upon Council approval and signatures below, and five days following required publication.

**PASSED** by the Town Council of the Town of Yarrow Point at a regularly scheduled meeting on the 13th day of December, 2022, and signed in authentication thereof by the undersigned.

**APPROVED:**

  
Katy Kinney Harris, Mayor

Date

**ATTEST:**

  
Austen Wilcox, Town Deputy Clerk

**APPROVED AS TO FORM:**

  
Scott M. Missall, Town Attorney



PASSED BY THE TOWN COUNCIL: December 13, 2022

PUBLISHED: December 16, 2022

EFFECTIVE DATE: December 17, 2022

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ORD. 725 ENHANCED PEDESTRIAN WALKWAY AND RELATED USES OF SALLY'S ALLEY;  
RESTRICTING AUTOMOTIVE USES

# The Seattle Times

## AFFIDAVIT OF PUBLICATION

Bonnie Ritter  
Town Of Yarrow Point  
4030 95th Ave NE  
Yarrow Point WA 98004

### SUMMARY OF ORDINANCE NO. 725 TOWN OF YARROW POINT, WASHINGTON

On the 13th day of December 2022, the Town Council of the Town of Yarrow Point, Washington passed Ordinance No. 725. A summary of the content of said ordinance consisting of the title provides as follows:

AN ORDINANCE OF THE TOWN OF YARROW POINT, WASHINGTON, AUTHORIZING AND IMPLEMENTING TOWN PLANS FOR ENHANCED PEDESTRIAN WALKWAY AND RELATED USES OF SALLY'S ALLEY (NE 38TH STREET); RESTRICTING AUTOMOTIVE USES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

The full text of this Ordinance will be mailed upon request.

Dated this 14th day of December, 2022  
Published this 16th day of December, 2022  
Austen Wilcox, Deputy Clerk

### STATE OF WASHINGTON, COUNTIES OF KING AND SNOHOMISH

The undersigned, on oath states that he/she is an authorized representative of The Seattle Times Company, publisher of The Seattle Times of general circulation published daily in King and Snohomish Counties, State of Washington. The Seattle Times has been approved as a legal newspaper by orders of the Superior Court of King and Snohomish Counties.

The notice, in the exact form annexed, was published in the regular and entire issue of said paper or papers and distributed to its subscribers during all of the said period.

12/16/2022

Agent Debbie Collantes Signature *Debbie Collantes*

Subscribed and sworn to before me on 12/16/22  
Frankie Flight

(Notary Signature) Notary Public in and for the State of Washington, residing at Seattle

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