



## Town Planning Commission Regular Meeting

Tuesday, March 21, 2023 – 7:00PM

Town Hall/Virtual

4030 95<sup>th</sup> Ave NE, Yarrow Point, WA. 98004

**Commission Chairperson:** Carl Hellings

**Commissioners:** Chuck Hirsch, David Feller, Jeffrey Shiu, Lee Sims, Ex officio Councilman Carl Scandella

**Town Planner:** SBN Planning

**Town Attorney:** Emily Romanenko

**Deputy Clerk:** Austen Wilcox

### **Meeting Participation**

Members of the public may participate in person at Town Hall or by phone/online. Town Hall has limited seating available, up to 15 public members. Individuals who call in remotely who wish to speak live should register their request with the Deputy Clerk at 425-454-6994 or email [depclerk@yarrowpointwa.gov](mailto:depclerk@yarrowpointwa.gov) and leave a message before 7:00 PM on the day of the Planning Commission meeting. Wait for the Deputy Clerk to call on you before making your comment. If you dial in via telephone, please unmute yourself by dialing \*6 when it is your turn to speak. Speakers will be allotted 3 minutes for comments. Please state your name (and address if you wish.) You will be asked to stop when you reach the 3-minute limit.

### **Join on computer, mobile app, or phone**

1-253-215-8782

Meeting ID: 816 1151 5058#

<https://us02web.zoom.us/j/81611515058>

1. **CALL TO ORDER:** Commission Chairperson, Carl Hellings
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL:** Commissioners, Chuck Hirsch, David Feller, Jeffrey Shiu, Lee Sims, Ex officio Councilman Carl Scandella
4. **APPROVAL OF AGENDA**
5. **STAFF REPORTS**
6. **PUBLIC COMMENT**

Members of the public may speak concerning items that either are or are not on the agenda. The Planning Commission takes these matters under advisement. Please state your name (and address if you wish) and limit comments to 3 minutes. If you call in via telephone, please unmute yourself by dialing \*6 when it is your turn to speak. Comments via email may be submitted to [depclerk@yarrowpointwa.gov](mailto:depclerk@yarrowpointwa.gov) or regular mail to: Town of Yarrow Point, 4030 95<sup>th</sup> Ave NE, Yarrow Point, WA 98004.
7. **APPROVAL OF THE MINUTES**

January 17, 2023 Special Planning Commission Meeting

**8. REGULAR BUSINESS**

**8.1 – Comprehensive Plan Update**

**8.2 – Hedge Code**

**8.3 – Development Standards Code HB-1220**

**8.4 – SEPA Overview**

**8.5 – Eagle Protections**

**9. PUBLIC COMMENT**

**10. ADJOURNMENT**

**TOWN OF YARROW POINT  
PLANNING COMMISSION SPECIAL MEETING MINUTES  
January 17, 2023**

The following is a condensation of the proceedings and is not a verbatim transcript.

**1. CALL TO ORDER:**

Commission Chairman Carl Hellings called the meeting to order at 7:00 p.m.

**PRESENT:**

Chairman: Carl Hellings

Commissioners: Chuck Hirsch  
Jeffrey Shiu  
David Feller  
Lee Sims  
Ex officio Councilman Carl Scandella

Staff: Austen Wilcox – Deputy Clerk  
Aleksandr Romanenko – SBN Planning  
James Eager – SBN Planning  
Dre Avila – SBN Planning

Guests:

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**4. APPROVAL/AMENDMENTS TO AGENDA**

MOTION: Motion by Commissioner Shiu, seconded by Commissioner Hirsch to approve the agenda as presented.

VOTE: 4 for, 0 against. Motion carried.

*Commissioner Feller arrived at 7:04 p.m.*

**5. STAFF REPORTS:**

Deputy Clerk Wilcox gave a report of the January 10 regular Council meeting.

**6. PUBLIC COMMENT**

None.

**7. MINUTES:**

- December 19, 2022 Regular Meeting

MOTION: Motion by Commissioner Hirsch, seconded by Commissioner Shiu to approve the December 19, 2022 regular meeting minutes as presented.

VOTE: 5 for, 0 against. Motion carried.

## **8. REGULAR BUSINESS:**

### **AB 23-01 – Town of Yarrow Point 2023 Planning Commission Work Plan**

During the January 2023 meeting of the Town Council, the proposed 2023 Planning Commission work plan was approved. The approved work plan includes work items which will continue from 2022 as well as new items added for 2023. If additional pressing matters come up in the Town, the Council may amend the work plan in order to direct the commission to address them.

- Hedge code update
- Code to address HB1220
- Periodic comprehensive plan update
- Short term rental code and policy (low priority project)

MOTION: Motion by Commissioner Hirsch, seconded by Chairman Hellings to accept the work plan as written and continue with the business of the Planning Commission.

VOTE: 5 for, 0 against. Motion carried.

### **AB 23-02 – Comprehensive Plan Update and Public Participation Plan**

Dre Avila, SBN's public engagement specialist, provided a presentation of the public participation plan for the Comprehensive Plan Update. The goal is to meet the community where they are most comfortable sharing feedback, whether by physical or digital media, educate the public on the comprehensive plan process goals and assess what the community wants for the Town of Yarrow Point. The comprehensive plan is not necessarily going to capture everything that the public expresses a desire to see. However, the plan is an opportunity for the community to express broad aspirational desires for topics including housing, transportation, and greenspace.

As a general update, the comprehensive plan process continues to move at the expected pace following the delay of the grant from Commerce. A final checklist submission to commerce is also expected by the end of the month, following a final review with the King County Regional Planning Assistant. SBN staff continues to work towards a completed comprehensive plan update by the end of June 2024.

The Commission discussed the following public engagement strategies:

- Mailer
- Newsletter
- Survey
- Table at 4<sup>th</sup> of July pickleball event
- Pagoda posting

The Commission will work with the Town Planner to develop development questions for the community engagement survey.

### **AB 23-03 – Hedge Code Amendments**

Council gave feedback and directed the Planning Commission to continue with their work and to finalize the Hedge Code as part of their 2023 work plan.

The Planning Commission discussed and made further amendments to the draft code. They would like to have legal staff provide input on the current draft.

The Commission discussed:

- Establishing a template for guidance for residence
- Legal staff review of draft code
- Modify private nuisance language
- Research cost estimate for each step of mediation & arbitration process
- Explanation from legal staff regarding 50 percent fees relating to mediation or arbitration
- Clarifying average for 6.6' height

MOTION: Motion by Chairman Hellings seconded by Commissioner Hirsch to direct to staff to research/revise the draft hedge code further and to come back with the resulting update at the next meeting.

VOTE: 5 for, 0 against. Motion carried.

### **AB 23-04 – HB-1220 Code Enforcement Discussion**

Based on this review, the Town has three methods of enforcing code compliance in Permanent Supportive Housing (PSH) and Transitional Housing (TH) facilities established due to HB-1220. The first is through the occupancy agreement established in 17.16.110(E). If a PSH or TH facility operator does not comply with their occupancy agreement, the Town can initiate code enforcement proceedings. These could include notices of violation, assessment of penalties, or removal of the facility altogether.

A second enforcement mechanism the Town could apply is requiring each operator to obtain a state business license. Similarly, if the operator does not comply with their occupancy agreement, the Town could ask the state to revoke that business license and the facility could no longer operate until they bring their license current. Finally, while not a direct form of enforcement, the Town could require periodic reports to the Mayor regarding how these permitted facilities are meeting performance metrics established by the Town. This would ensure the Town can regularly review the facility operations and can preemptively address any problems that arise.

The Planning Commission discussed:

- Enforcement Options and draft HB-1220 code
- List updates for staff to incorporate before future meetings

MOTION: Motion by Chairman Hellings, seconded by Commissioner Feller to recommend that the Town Council review the Draft HB1220 Code and provide the Planning Commission with direction.

VOTE: 5 for, 0 against. Motion carried.

**9. PUBLIC COMMENT:**

None.

**10. ADJOURNMENT:**

MOTION: Motion by Chairman Hellings, seconded by Commissioner Feller to adjourn the meeting at 8:37 p.m.

VOTE: 5 for, 0 against. Motion carried.

APPROVED:

ATTEST:

\_\_\_\_\_  
Carl Hellings, Chairman

\_\_\_\_\_  
Austen Wilcox, Deputy Clerk



<b>Comprehensive Plan Update</b>	<b>Proposed Planning Commission Action: Discussion Only</b>
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<b>Presented by:</b>	Town Planner
<b>Exhibits:</b>	<ul style="list-style-type: none"> <li>● Planning Commission Survey Review</li> <li>● TYP GMA Full Update Overview</li> </ul>

**Summary:**

As part of ongoing 2024 Comprehensive Plan (the “Plan”) developments, the Town Planner presented the public participation plan at January’s Planning Commission meeting. The discussion focused on the best approach to public outreach, and the Commission motioned for the Planner to administer a survey to the commissioners. The survey was intended to gather the commissioners’ sentiments and level of satisfaction with the Town’s approach to the broad themes the Plan will cover. The attached exhibit, Planning Commission Survey Review, briefly covers the results of this survey and how Commission responses could impact the development of questions for the broader public survey.

Aside from this survey, the process of updating the comprehensive plan this month included conducting a Land Capacity Analysis, reviewing MSRC’s Plan Review checklist, and preparing materials for a public launch of mailers and a web page in the coming months. March should see further outreach and engagement as the team plans on adding Comprehensive Plan Update information to the Yarrow Point website, sending out information in the newsletter, and coordinating a mailer campaign to inform residents of this process and the public’s role therein. This effort will occur as the team begins a coordinated effort to bring the existing Comprehensive Plan to a baseline level of compliance through chapter-wise reviews.

**Action Items**

- Staff Presentation on the Comprehensive Plan Process (10min)
- Discussion on public engagement and next steps (10min)

**Commission Options:**

- Take no action
- Continue Discussion

**Recommended Motion:**

- NA

# Yarrow Point Public Participation Plan

2022-2024 GMA Comprehensive Plan Update

February 21, 2023

## Commission Survey

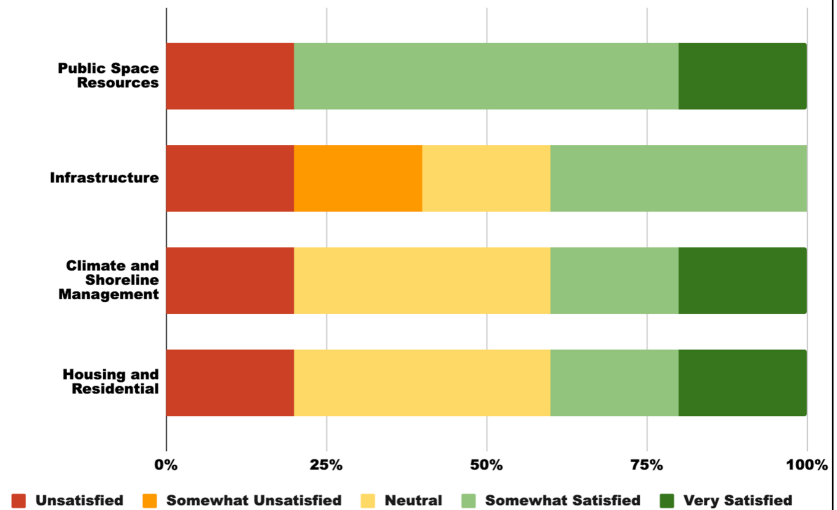
- Identified Areas of Importance
- Responses
- Sample Questions

## Yarrow Point Community Satisfaction

Based on Yarrow Point Planning Commission Response

### Based on Commission Responses:

- **Public Space Resources** have the highest overall satisfaction.
- The community has a generally favorable view of **Climate and Shoreline Management** and **Housing and Residential Land Use**, but could use more information on what Yarrow Point is doing.
- There is room for **Infrastructure** improvements to meet more of the community needs.





## Commission Feedback and Sample Questions

### Public Space Resources

- “Commit more resources (money and staff) to improve and maintain public spaces.”
- “Create a proposed capital expenditure plan for facility improvements and share it with the residents of the community (i.e. Sallys' Alley, beach park...)”

#### Sample Questions:

How important is it for the Town to invest in *new* public parks and greenspaces?

[Scaled answer of *Not Important At All* to *Very Important*]

Which ONE of the following approaches do you think Yarrow Point should adopt for parks and public spaces?

1. Acquire available properties for new parks
2. Invest only in maintaining and improving existing parks
3. Build new parks and greenspaces on already publicly-owned land.

### Infrastructure

- “Infrastructure is good but I believe residents would like to see utilities placed underground.”
- “Upgrade stormwater facilities to a better standard”

#### Sample Questions:

How walkable would you rate Yarrow Point?

[Scaled answer of *Not Walkable At All* to *Very Walkable*]

How would you rank the following on a scale of Low to High funding priority? [Slide scale for each item]

- Pedestrian and bike paths
- Stormwater runoff management
- Road maintenance
- Utilities relocated underground

## Commission Feedback and Sample Questions

### Climate Resiliency and Shoreline Management

- “Where would I read the YP climate resiliency plan?”
- “I’m not aware of town’s policy goals or current plans in these two areas”

#### Sample Questions:

How important is it for Yarrow Point to plan for climate resiliency?

[Scaled answer of *Not Important At All* to *Very Important*]

How familiar are you with Yarrow Point’s shoreline management policies?

[Scaled answer of *Not Familiar At All* to *Very Familiar*]

### Housing and Residential Land Use

- “Issues of vacant homes (and lack of upkeep) and also potential multi-resident homes”
- “Stormwater management during new construction seems intermittent. Protection of nesting birds (eagles) should be considered as a policy goal.”
- “I believe the town has implemented good code but lacks the “policing” of the code.”

#### Sample Questions:

How concerned are you with short-term rentals in Yarrow Point?

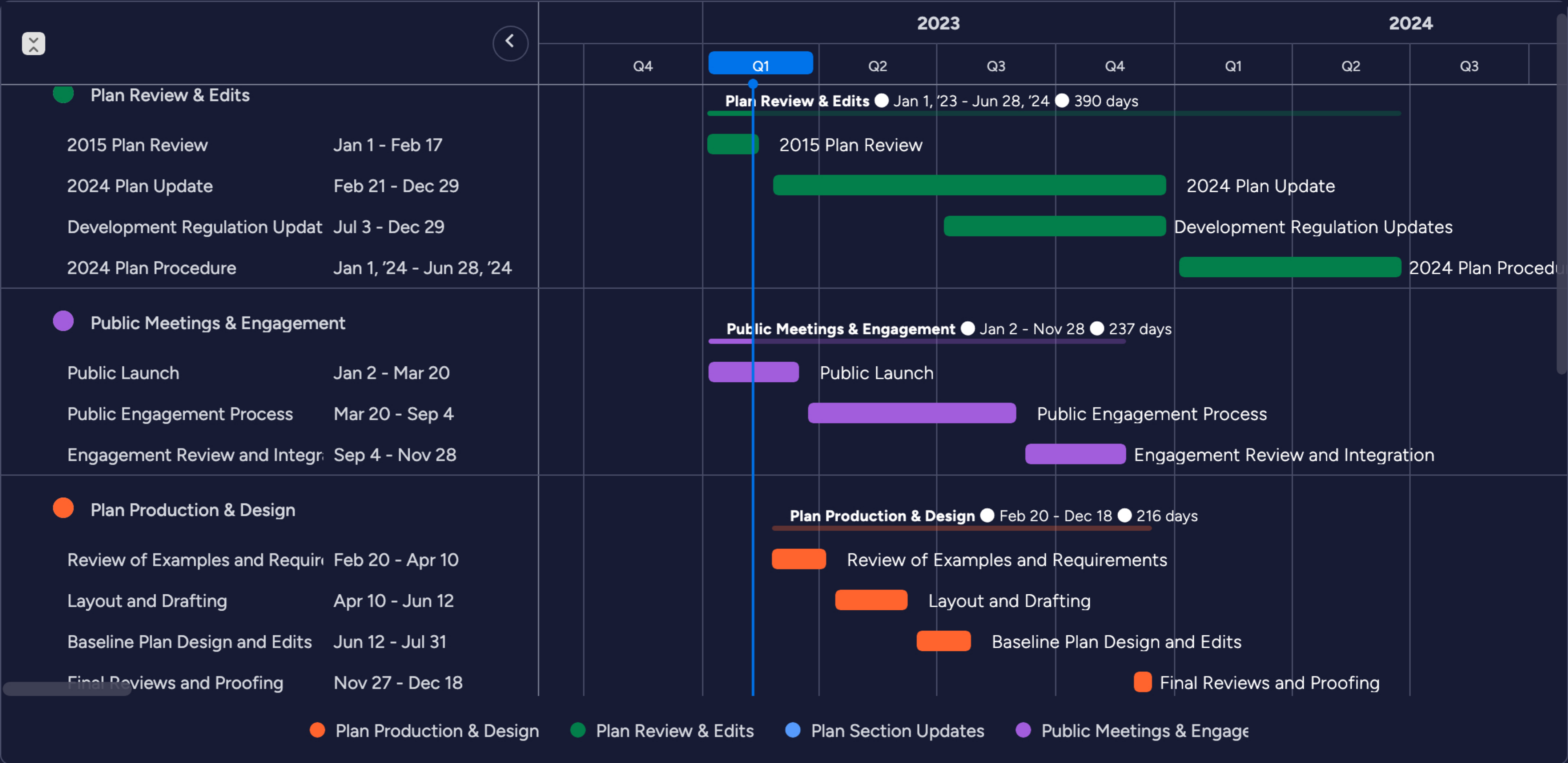
[Scaled answer of *Not Concerned At All* to *Very Concerned*]

How concerned are you about new home construction impacting habitat for protected species?

[Scaled answer of *Not Concerned At All* to *Very Concerned*]

# TYP GMA Update 2024

February 09, 2023 | 10:39:37



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<b>Hedge Code Amendments</b>	<b>Proposed Planning Commission Action: Discussion Only</b>
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<b>Presented by:</b>	Town Planner
<b>Exhibits:</b>	Draft Hedge Code Canlis Hedge Code Letter

**Summary:**

Prior Planning Commission meetings discussed the ambiguities in the definition of the Town’s Hedge Code that make it difficult to enforce hedge code regulations.

Chapter 17.08 YPMC states that a “hedge exist whenever a row of two or more trees, shrubs, or other plants constitute a barrier in excess of six linear feet and establish a boundary, or hinder free passage of humans or animals on the surface of the ground, or screen or obscure vision, or baffle sound.” YPMC 17.12.030 then prohibits hedges in the setback from exceeding 6 feet in height.

These ambiguities in the code create challenges for enforcement, as illustrated by the Town Building Official’s presentation during the May Planning Commission meeting. Mr. Wilcox noted that it is difficult to enforce the code because of how flexible the hedge definition is. He further noted that during his ten plus years working in Yarrow Point, he has mediated 40-50 hedge complaints and in only one case did the offending hedge owner reduce the hedge height to the code mandated 6 feet. In all other cases, the parties agreed to a negotiated hedge height taller than 6 feet.

Governmental regulations are based on ensuring the public’s health, safety, and welfare. From this perspective, the Town has no public policy reason to regulate hedges between private properties. Hedges between private properties do not infringe on the sight lines for safe travel, nor damage public streets and sidewalks, nor cause harm to utility lines – in short, they do not impact the public sphere. Thus, there is little to justify governmental regulation of such hedges.

**Last six months:** Town staff has worked with the Planning Commission to create a draft code that eliminates the ambiguities in the existing code, creates a clearer definition for hedges, and removes the Town from the enforcement process. Additionally, the draft code creates clear and detailed guidelines for residents to privately resolve their hedge disputes, and in the event that the voluntary dispute resolution process fails, they can seek civil action through a private nuisance claim.

**December Meeting:** The commissioners directed staff to bring the draft code to council for general review and feedback. Staff then presented the draft hedge code to Town Council during the regular January Meeting. Council gave feedback and directed the Planning Commission to continue with their work and to finalize the Hedge Code as part of their 2023 work plan.

**January Meeting:** The commission discussed the need to look at existing Hedge complaints within the Town, and to apply the draft code to see where amendments may be made to refine and finalize the draft. The Mayor, two commissioners, and Town Planner visited several sites and reviewed the hedge complaints. The site visits resulted in a several topics to discuss at the February meeting:

- Grandfathering of existing hedges.
- Neighbor maintenance agreements staying with the property after change of ownership.
- The Town's role in enforcement.
- Additional consideration for trees comprising a hedge by current draft definition.

The draft code was found to be applicable to all of the visited sites, and would define the subjects of the complaints as hedges in all instances.

### **Action Items**

- Staff Presentation on council feedback and changes (10min)
- Discuss draft hedge code (20min)
- List updates for staff to incorporate before next meeting if any (5min)
- Vote (5min)

### **Commission Options:**

- Approve "document" as presented
- Approve "document" with Amendments
- Direct Staff to do further research or revisions

### **Recommended Motion:**

- I move to recommend that the Town Council approve the draft hedge code amendments as presented to the Town Planning Commission.

OR

- I move to recommend that the Town Council approve the draft hedge code amendments with the following amendments: -----

OR

- I move to direct to staff to research/revise ----- further and to come back with the resulting update at the next meeting.

**DRAFT**

**Yarrow Point Municipal Code**

**CHAPTER 20.XX. Private Hedge Code**

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**20.XX.010 Purpose and Intent.**

This chapter is enacted to provide a voluntary mechanism for the fair resolution of disputes involving the height of hedges. It shall not be construed to provide rights beyond those entitled under Washington law. The Town has no right nor obligation to enforce any of the provisions of this chapter.

- A. Among the features that contribute to the attractiveness and livability of the Town of Yarrow Point are its hedges and landscaping, both native and introduced.
- B. Hedges and landscaping provide a wide variety of psychological and tangible benefits for both residents and visitors to the Town.
- C. With appropriate safeguards requiring consideration of all the factors set forth herein, affected property owners can be given relief without infringing upon the rights of the hedge owners.
- D. It is in the interest of the public welfare, health and safety to establish standards for the resolution of hedge code violation claims and to establish a structure for resolution of such claims.
- E. When a hedge dispute arises, the parties should act reasonably to resolve the dispute through friendly communication, thoughtful negotiation, compromise and other traditional means. Those disputes which are not resolved through such means may be resolved by following the procedures established herein.

**20.XX.020 Definitions.**

- A. "Complainant" means a complaining property owner in the Town of Yarrow Point who alleges that hedge(s) are not compliant with this chapter.
- B. "Crown" means the portion of a planting containing leaf or needle bearing branches.
- C. "Hedge owner" means the owner of the real property on which a hedge is located.
- D. "Hedge" means 3 or more plantings planted or growing in: (1) a continuous row where the crowns of the plantings touch and/or overlap, AND (2) is 10 feet in length or longer, AND (3) that forms a physical and/or visual barrier, AND (4) has a height in excess of 3 feet.
- E. "Property Owner" means any individual, firm, partnership, corporation, trust or other legal entity owning property in the Town of Yarrow Point.
- F. "Plantings" means any flora on a property including but not limited to plants, grasses, trees, or shrubs.
- G. "Row" means a line which may be straight, curved, or otherwise irregular.

**20.XX.030 General Requirements**

- A. A hedge or portion of a hedge located within a setback shall not exceed 6 feet 6 inches, or a height mutually agreed upon by current property owners and established in writing.
  - 1. Hedge height shall be measured from existing grade, immediately adjacent to the hedge.
- B. Plantings which are along or inside of a hedge that do not have overlapping crowns with other plantings shall not be regulated as part of a hedge.
- C. Removal or modification of a hedge comprised in part, or entirely, of significant trees as defined in YPMC Section 20.22.020 (H), shall also comply with Chapter 20.22 YPMC where applicable.

#### **20.XX.040 Rights Established**

A complainant shall have the right to use the processes set forth in this chapter to limit the height of a hedge in a setback to the permissible height set forth herein, so long as the complainant establishes that the hedge alleged to violate this chapter is located adjacent to a property line that the complainant shares with the hedge owner.

#### **20.XX.050 Private Nuisance**

A hedge located within a setback that exceeds the permitted height established in YPMC 20.XX.030 constitutes a private nuisance subject to redress as provided in this chapter. If a property owner plants, maintains, or permits to grow any hedge which exceeds the permitted height established in YPMC 20.XX.030, then a complainant shall have the rights set forth in this chapter.

#### **20.XX.060 Methods of relief.**

Methods of relief that may be granted include pruning, thinning, windowing, topping, or removal of the hedge.

#### **20.XX.070 Process for resolution of hedge disputes.**

- A. The following process shall be used in the resolution hedge code violations:
  1. Initial reconciliation. A complainant who believes that hedge growth does not meet the requirements of this chapter shall first notify the hedge owner in writing of such concerns. Notification should, if possible, be accompanied by a personal discussion to enable the complainant and hedge owner to attempt to reach a mutually agreeable solution.
  2. Mediation. If the initial reconciliation attempt fails, the complainant shall propose, in writing to the hedge owner, to submit the dispute to mediation.
  3. Binding arbitration. If mediation fails, the complainant shall propose, in writing to the hedge owner, to submit the dispute to binding arbitration.
  4. Litigation. If the hedge owner fails to participate in binding arbitration, the complainant may pursue civil action to resolve the dispute.

#### **20.XX.080 Mediation**

- A. Acceptance of mediation by the hedge owner shall be voluntary however the hedge owner shall have no more than 30 days from service of notice to either accept or reject the offer of mediation. If mediation is accepted, the parties shall mutually agree upon a mediator within 10 days of acceptance by the hedge owner of the mediation process.
- B. It is recommended that the services of a professionally trained mediator be employed. Mediation may be arranged through the Seattle-King County Alternate Dispute Resolution Center.
- C. The mediation meeting may be informal. The mediation process may include the hearing of the viewpoints of lay or expert witnesses and shall include a site visit to the properties of the complainant and the hedge owner. The parties are encouraged to contact immediate neighbors and solicit input. The mediator shall consider the purposes and policies set forth in this chapter in attempting to help resolve the dispute. The mediator shall not have the power to issue binding orders for the methods of relief established by YPMC 20.XX.060 but shall strive to enable the parties to resolve their dispute by written agreement in order to eliminate the need for binding arbitration or litigation.

**20.XX.090 Hedge claim preparation.**

- A. In the event that the initial reconciliation process fails, and mediation either is declined by the hedge owner or fails, the complainant must prepare a hedge claim and provide a copy to the hedge owner in order to pursue either binding arbitration or litigation as set forth in this chapter. A hedge claim shall consist of all of the following:
  - 1. A description of the nature and extent of the alleged violation, including pertinent and corroborating physical evidence. Evidence may include, but is not limited to, digital photographs, photographic prints, negatives or slides.
  - 2. Complainant's address and contact information.
  - 3. The location of the hedge alleged to cause the violation, the address of the property upon which the hedge is located, and name of hedge owner.
  - 4. Evidence of the failure of initial reconciliation to resolve the dispute. The complainant must provide evidence that written attempts at reconciliation have been made and have failed. Evidence may include, but is not limited to, email correspondence with both parties responses, copies of and receipts for certified or registered mail correspondence.
  - 5. Evidence that mediation has been attempted and has failed, or has been declined by the hedge owner.
  - 6. The specific relief proposed by the complainant to resolve the violation.

**20.XX.100 Binding arbitration.**

- A. In those cases where the initial reconciliation process fails and where mediation is declined by the hedge owner or has failed, the complainant must offer in writing to submit the dispute to binding arbitration, and the hedge owner may elect binding arbitration.
- B. The hedge owner shall have 30 days from service of notice to accept or reject binding arbitration. If accepted, the parties shall agree on a specific arbitrator within 10 days, and shall indicate such agreement in writing.
- C. The arbitrator shall use the provisions of this chapter to reach a fair resolution of the dispute and shall submit a complete written report to the complainant and the hedge owner. The report shall include the arbitrator's findings with respect to YPMC 20.XX.030, a pertinent list of mandated relief with any appropriate conditions concerning such actions, and a schedule by which the mandates must be completed. A copy of the arbitrator's report shall be filed with the Town. The decision of the arbitrator is binding on the parties. Any decision of the arbitrator may be enforced by civil action, as provided by law.

**20.XX.110 Litigation.**

- A. In those cases where binding arbitration is declined by the hedge owner, then civil action may be pursued by the complainant for resolution of the hedge dispute under the provisions and guidelines set forth in this chapter.
- B. The complainant must state in the lawsuit that mediation and binding arbitration were offered and not accepted. A copy of any final resolution of the litigation shall be filed with the Town.

**20.XX.120 Apportionment of costs.**

- A. Mediation and arbitration. The complainant and hedge owner shall each pay 50 percent of mediation or arbitration fees, unless they agree otherwise or allow the mediator or arbitrator discretion to allocate costs.
- B. Relief. The costs of relief requested shall be determined by mutual agreement or through mediation, arbitration, court decision or settlement.

**20.XX.130 Limitation.**

- A. This chapter shall not be construed to affect obligations imposed by easement, covenants or agreements.
- B. This chapter shall not apply to hedges located on Town property or right-of-way.
- C. Under no circumstances shall the Town have any responsibility or liability to enforce or seek any legal redress, civil or criminal, for any decision that any other person or entity makes concerning a hedge complaint, including, but not limited to, agreements arrived at during the initial reconciliation or mediation process. Failure of the Town to enforce provisions of this chapter shall not give rise to any civil or criminal liabilities on the part of the town. A failure to comply with the provisions of this chapter is not a misdemeanor, and the enforcement of this chapter shall be only by the affected and interested private parties.

DRAFT



Dear Yarrow Mayor and Town Planners,

1/27/23

You have proposed a change to the hedge code that will provide improved clarity to the regulations, but will place in neighbors' hands the responsibility for enforcement of violations of that code. Your stated reasoning for this change is a fear of litigation expense that will go beyond the town's ability to cope with legal costs. We believe this response to the issue is shortsighted and unwise. As a matter of public policy, this approach will likely be detrimental to the long term well-being of our entire Yarrow Point community.

The residents of our town rely upon the town government to provide safety and protection in many ways. If someone speeds down 92<sup>nd</sup>, ignoring the obvious 25 mph signs, it is not up to a bystander to remedy the situation. Rather, it is the police who have the right and responsibility to stop and cite the violator with a speeding ticket. Their response is for the protection of people walking along the sidewalk, as well as for the ever-present possibility of children inadvertently rushing into the road and being struck because the speeder didn't have time to stop. Without such deterrence, more of us will drive faster on our roads and will come to believe that we can do what we want with our car, regardless of what the regulations say.

If thieves, come and rifle our mailboxes, the police and the residents and the installed cameras are part of a response which lets the thieves know they will be held accountable in our community. If instead, we simply repair the mailbox and go on as if nothing happened, then Yarrow Point will become known as the place where you can steal and damage property with impunity. Gradually there will be a degradation of law and civilized behavior.

With this new hedge code, the town is going on record as saying in essence: "There are rights for property owners, and there are regulations that guide those rights; but there are no provisions for enforcing and penalizing those who break the regulations." With that message, we are inviting a "might means right" attitude that will break down civility and relationships. If lawsuits between neighbors become our norm, we will gradually lose the very essence of the community life upon which Yarrow Point relies -- to be a neighborhood of mutually caring and considerate people not of people who disregard the law.

Does the Town of Yarrow Point really want to set up a system that will invite and even force neighbors to sue one another? Don't we have the political will to establish both fair rules *and* fair enforcement that doesn't guarantee the deepest pockets as deciding every outcome?

So what to do? You might start with a mediation provision that describes a process for resolving such disputes. You could include in the code an enforcement provision much more significant than \$70 a day— let's say \$500 or \$1000 a day —for clear violations of the newly revised and clarified code. Also include a provision in the new code that would specify the right of the town to collect on any expenses they incur including attorney fees that arise in the process of holding offenders to account for what they have done. These kinds of measures will make the new code meaningful and cause people to seriously consider whether or not to break the rules of living on Yarrow Point.

Thank you for working so hard on this project. We appreciate the efforts you are making on our behalf. As you move forward, we want to encourage you to also consider creating new and sustainable enforcement provisions as an essential part of your new regulations. Without enforcement, your new regulations will pit neighbor against neighbor. Instead, please have the foresight and courage to risk creating a statute that will enhance the friendliness and kindness for which Yarrow is well known.

Sincerely,

Chris and Alice Canlis



<b>Draft Development Standards Code (HB-1220)</b>	<b>Proposed Planning Commission Action: Discussion Only</b>
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<b>Presented by:</b>	Town Planner
<b>Exhibits:</b>	Draft Development Standards Code Updates (TYPMC 17.XX.XXX)

**Summary:**

At the December planning commission meeting, the commission instructed the Town Planner to review potential enforcement mechanisms for the ESSHB-1220-related code amendments and present them to Town Council to review the Town’s position. Town Council reviewed the draft amendments during their February meeting and directed the Town Planner to develop amendments that were strict, concise, and clear. Council direction also included a focus on parking, mitigating neighborhood impacts, and making sure safety is considered.

These revisions, along with previous Planning Commission feedback about the facility buffer, are included in the attached exhibit. Given the desired level of strictness from Town Council, these updates require facilities to obtain a Washington State Business License, submit quarterly performance reports to the Town, and include a provision that parking and traffic not exceed normal levels for the neighborhood. The half-mile radius is also now inclusive of adjacent jurisdictions to ensure an appropriate distance from other facilities in nearby jurisdictions. These revisions raise the bar for the operation of a Permanent Supportive or Transitional Housing (“PSH” or “TH”) facility in Yarrow Point.

Final guidance from Commerce is still forthcoming, though final projected housing needs and allocation guidance are anticipated later this month.

**Action Items**

- Staff Presentation on Council feedback and changes (10min)
- Discuss Draft Development Code Updates (5min)
- List updates to include for next meeting if any (5min)
- Vote (5min)

**Commission Options:**

- Approve “document” as presented
- Approve “document” with Amendments
- Direct Staff to do further research or revisions

**Recommended Motion:**

- I move to recommend that the Town Council approve the draft development standards code amendments as presented to the Town Planning Commission.

OR

- I move to recommend that the Town Council approve the draft development standards code amendments with the following amendments: -----

OR

- I move to direct to staff to research/revise ----- further and to come back with the resulting update at the next meeting.

## Yarrow Point Municipal Code Title 17 Zoning Draft Amendments

### 17.12.010 Definitions. **NEW**

“Permanent supportive housing” means one or more subsidized, leased dwelling units with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

“Transitional housing” means one or more dwelling units owned, operated, or managed by a nonprofit organization or governmental entity in which supportive services are provided to individuals and families that were formerly homeless, with the intent to stabilize them and move them to permanent housing within a period of not more than 24 months, or longer if the program is limited to tenants within a specified age range or the program is intended for tenants in need of time to complete and transition from educational or training or service programs.

### 17.16.110 Permanent supportive housing and transitional housing facilities. **NEW**

Permanent supportive and transitional housing facilities are permitted uses in any zoning district allowing a single-family dwelling subject to the following criteria:

- A. Permanent supportive and transitional housing facilities are limited to a maximum of six residents at any one time, plus up to four resident staff.
- B. Permanent supportive and transitional housing facilities must be a 24-hour-per-day facility where rooms or units are assigned to specific residents for the duration of their stay. Transitional housing facilities shall require a minimum length stay of 72-hours.
- C. On-site services such as laundry, hygiene, meals, case management, and social programs are limited to the assigned residents and shall not be available for drop in or other use by nonresidents.
- D. No permanent supportive housing or transitional housing facility may be located within half a mile of another property that contains a permanent supportive housing or transitional housing facility **in the town or an adjacent jurisdiction**, calculated as a radius from the property lines of the site.
- E. **Provision of quarterly reports to Town staff on how permitted facilities are meeting performance metrics. Metrics can include but are not limited to placement of residents into permanent housing or other treatment programs, length of stay for residents, and employment status of residents.**
- F. **Permanent supportive and transitional housing facility operators shall obtain a State of Washington Business License.**
- G. **There shall be no demand for parking beyond that which is normal to the neighborhood and no unusual or excessive traffic to and from the premises. In no case shall the facility cause on-street parking.**
- H. Prior to the start of operation for a permanent supportive housing or transitional housing facility, an occupancy agreement shall be submitted to the town meeting the following requirements. The town shall review and determine that the occupancy agreement meets the following requirements to the town's satisfaction before approving the occupancy agreement.

1. Property owners and/or facility operators shall use and enforce the occupancy agreement approved by the town.
2. The occupancy agreement shall include but is not limited to the following:
  - a. Names and contact information for onsite staff. The facility operator shall notify the town of each staff change(s) within 72 hours.
  - b. Description of the services to be provided onsite.
  - c. Description of the staffing plan including the following:
    - i. Number, function, and general schedule of staff supporting residents and operations.
    - ii. Staff certification requirements.
    - iii. Staff training programs.
    - iv. Staff to resident ratios.
    - v. Roles and responsibilities of all staff.
    - vi. The name and contact information for at least one organization member located off-site.
  - d. Rules and/or code of conduct describing resident expectations and consequences for failing to comply. At minimum, the code of conduct shall be consistent with state law prohibitions and restrictions concerning the following:
    - i. Possession and use of illegal drugs onsite.
    - ii. Threatening or unsafe behavior.
    - iii. Possession and use of weapons.
  - f. A fire safety plan reviewed and approved by the Bellevue Fire Department confirming fire department access.
  - g. A safety and security plan reviewed and approved by the Clyde Hill Police Department including protocols for response to the facility and to facility residents throughout the town. The safety and security plan shall establish a maximum number of permitted Clyde Hill Police Department response calls to the facility. Any Clyde Hill Police Department call(s) to the facility exceeding the maximum threshold established in the safety and security plan shall be considered a violation of this chapter and the facility operator will be fined in accordance with YPMC 1.08.030.
  - h. A plan for avoiding potential impacts on nearby residences including a proposed mitigation approach (for example, a Good Neighbor Agreement Plan) that addresses items such as noise, smoking areas, parking, security procedures, and litter.
  - i. Description of eligibility for residency and resident referral process.

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<b>SEPA Fill or Excavation Threshold</b>	<b>Proposed Planning Commission Action: Discussion</b>
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<b>Presented by:</b>	Town Planner
<b>Exhibits:</b>	SEPA Overview WAC 197-11-800

**Summary:**

A recommendation has been made to the Mayor to review the SEPA flexible exemption thresholds (State Environmental Policy ACT). The planning commission has been asked to determine if a change should be made to the Towns fill and excavation threshold as it relates to SEPA. The Towns current SEPA threshold is 100 cubic yards of fill and excavation. The range for the fill and excavation threshold is 100 – 1000 cubic yards WAC 197-11-800. A brief overview of SEPA from the WA State Department of Ecology has been included in the packet, along with WAC 197-11-800. For more in depth materials please see:

- [The SEPA handbook](#)
- [19.04.110 YPMC Flexible thresholds for categorical exemptions](#)
- [Chapter 43.21C RCW \(State Environmental Policy\)](#)
- [Chapter 197-11 WAC \(SEPA Rules\)](#)

**Action Items**

- Staff Presentation (15min)
- Discussion (20min)
- Vote (5min)

**Commission Options:**

- Take no action
- Continue Discussion
- Recommend to Council

**Recommended Motion:**

- I move to continue discussion at our next meeting
- I move to keep the current thresholds in place and continue with the other business of the Planning Commission.
- I move to recommend that the Town Council add SEPA flexible fill and excavation thresholds as an item to the Planning Commission 2023 work plan as priority #\_.

# Overview of Washington State Environmental Policy Act (SEPA)

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The Washington Legislature enacted the State Environmental Policy Act in 1971. Commonly called SEPA, the law helps state and local agencies in decisions such as:

- Issuing permits for private projects such as an office building, grocery store, or apartment complex.

- Constructing public facilities like a new school, highway, or water pipeline.

- Adopting regulations, policies, or plans such as a county or city comprehensive plan, critical area ordinance, or state water quality regulation.

Every day, state and local agencies use SEPA to evaluate proposed decisions. Information learned through the review process can be used to:

- Change a proposal to reduce likely impacts.

- Apply conditions to or deny a proposal when adverse environmental impacts are identified.

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## SEPA: Legal overview

The State Environmental Policy Act may be Washington's most powerful legal tool for protecting the environment. Among other things, the law requires:

- "Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental data to the extent that they are available to identify, understand, and predict the potential cumulative impacts of projects which may have an impact on man's environment."

- Ensure that "environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations."

SEPA policies and goals supplement existing authorizations for Washington's executive, legislative and judicial branches including state agencies, and governmental action may be conditioned or denied pursuant to SEPA.

## Purpose and intent

SEPA is intended to ensure that environmental values are considered during decision-making by state and local agencies. When SEPA was adopted, the legislature stated:

- To declare a state policy which will encourage productive and enjoyable harmony between people and their environment.

- To promote efforts which will prevent or eliminate damage to the environment and biosphere.

- Stimulate public health and welfare.

- Enrich the understanding of the ecological systems and natural resources important to Washington and the nation.

To meet these purposes, state SEPA rules direct state and local agencies to:

- Consider environmental information (impacts, alternatives, and mitigation) before committing to a particular course of action.

- Identify and evaluate probable impacts, alternatives and mitigation measures, emphasizing important environmental impacts and alternatives (including indirect impacts).

- Encourage public involvement in decisions.

- Prepare environmental documents that are concise, clear, and to the point.

- Integrate SEPA with existing agency planning and licensing procedures so procedures run concurrently rather than consecutively.

- Integrate SEPA with agency activities at the earliest possible time to ensure planning and decisions reflect environmental values, avoid delay, and prevent problems.

## The environmental review process

The environmental review process in SEPA is designed to work with other regulations to provide a comprehensive review of a proposal. While most proposals, SEPA requires the identification and evaluation of probable impacts on all elements of the environment.

Combining the review processes of SEPA and other laws reduces duplication and delay by combining study needs, combining comment periods and the public to consider all aspects of a proposal at the same time.

SEPA can address project proposals such as:

- New construction

- Demolition

- Landfills

- Exchanges of natural resources

Or non-project proposals such as:

- Comprehensive plans

- Zoning

- Development regulations

SEPA also gives agencies the authority to condition or deny a proposal based on the agency's adopted SEPA policies and the environmental impacts of the proposal.

## History

First adopted in 1971, the State Environmental Policy Act (SEPA) provided Washington's basic environmental charter. Prior to its adoption, the public had no way to reflect environmental considerations. State and local agencies responded there was no regulatory framework enabling them to address environmental impacts. The Environmental Policy Act (1969), was created to fill this need.

It gives agencies the tools to allow them to consider and mitigate for the environmental impacts of proposals. Provisions were also included to involve the public in most review processes prior to a final decision being made.

**Categorical exemptions.**

The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305.

Note: The statutory exemptions contained in chapter 43.21C RCW are not included in Part Nine. Chapter 43.21C RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

**(1) Minor new construction - Flexible thresholds.**

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency. The exemptions in this subsection apply except when the project:

- (i) Is undertaken wholly or partly on lands covered by water;
- (ii) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;
- (iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or
- (iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(b) The following types of construction shall be exempt:

- (i) The construction or location of four attached or detached single family residential units.
- (ii) The construction or location of four multifamily residential units.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for 20 automobiles. This exemption includes parking lots for 20 or fewer automobiles not associated with a structure.

(v) Any fill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (i), (ii), (iii), or (iv) of this subsection shall be exempt.

(c) Cities, towns or counties may raise the exempt levels up to the maximum specified in (d) of this subsection by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC 197-11-904). Separate maximum optional thresholds are established in (d) of this subsection applying to both incorporated areas and unincorporated urban growth areas in fully planning jurisdictions under RCW 36.70A.040; other unincorporated areas in fully planning counties; and jurisdictions in all other counties. Agencies may adopt the maximum level or a level between the minimum and maximum level. An agency may adopt a system of several exempt levels, such as different levels for different geographic areas, and mixed use projects.

At a minimum, the following process shall be met in order to raise the exempt levels.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations. The city, town, or county must document the result of its outreach with the department of transportation on impacts to state-owned transportation facilities, including consideration of whether mitigation is necessary for impacts to state-owned transportation facilities.

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established notice and comment opportunities for the public, affected tribes, and agencies regarding permitting of development projects included in these increased exemption levels.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the agency shall provide a minimum of 60 days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

(iv) The city, town, or county must document how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised. The requirements for notice and opportunity to comment for the public, affected tribes, and agencies in (c)(i) and (ii) of this subsection and the requirements for protection and mitigation in (c)(i) of this subsection must be specifically documented. The local ordinance or resolution shall include, but not be limited to, the following:

- Use of available data and other project review tools regarding known and likely cultural and historic resources, such as inventories and predictive models provided by the Washington department of archaeology and historic preservation, other agencies, and tribal governments.
- Planning and permitting processes that ensure compliance with applicable laws including chapters 27.44, 27.53, 68.50, and 68.60 RCW.
- Local development regulations that include at minimum preproject cultural resource review where warranted, and standard inadvertent discovery language (SIDL) for all projects.

(d) The maximum exemption levels applicable to (c) of this subsection are:

Project types	Fully planning GMA counties			All other counties
	Incorporated UGA	Unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential	30 units	30 units	20 units	20 units
Single family residential with the total square footage less than 1,500 square feet	100 units	30 units	20 units	20 units
Multifamily residential	200 units	60 units	25 units	25 units



Barn, loafing shed, farm equipment storage, produce storage or packing structure	40,000 square feet	40,000 square feet	40,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	30,000 square feet and 90 parking spaces	30,000 square feet and 90 parking spaces	12,000 square feet and 40 parking spaces	12,000 square feet and 40 parking spaces
Fill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards

**(2) Other minor new construction.**

(a) The exemptions in this subsection apply to all licenses required to undertake the following types of proposals except when the project:

- (i) Is undertaken wholly or partly on lands covered by water;
- (ii) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;
- (iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or
- (iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(b) The construction or designation of bus stops, loading zones, shelters, access facilities, pull-out lanes for taxicabs, transit and school vehicles, and designation of transit only lanes.

(c) The construction or installation of commercial on-premise signs, and public signs and signals, including those for traffic control and wayfinding.

(d) The construction or installation of minor road and street improvements by any agency or private party that include the following:

- (i) Safety structures and equipment: Such as pavement marking, adding or removing turn restrictions, speed limit designation, physical measures to reduce motor vehicle traffic speed or volume, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators;
- (ii) Transportation corridor landscaping (including the application of state of Washington approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality;
- (iii) Temporary traffic controls and detours;
- (iv) Correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required;
- (v) Adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required;
- (vi) Channelization, rechannelization, elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation;
- (vii) Installation of catch basins and culverts for the purposes of road and street improvements;
- (viii) Reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders where capacity is not increased and no new right of way is required;
- (ix) Addition of bicycle lanes, paths and facilities, and pedestrian walks and paths including sidewalk extensions, but not including additional automobile lanes.

(e) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(f) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.

(g) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance such as listing in a historic register.

(h) The installation or removal of impervious underground or above-ground tanks, having a total capacity of 10,000 gallons or less except on agricultural and industrial lands. On agricultural and industrial lands, the installation or removal of impervious underground or above-ground tanks, having a total capacity of 60,000 gallons or less.

(i) The vacation of streets or roads, converting public right of way, and other changes in motor vehicle access.

(j) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(k) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(l) The installation of accessory solar energy generation equipment on or attached to existing structures and facilities whereby the existing footprint and size of the building is not increased.

**(3) Repair, remodeling and maintenance activities.** The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, recreation, and transportation facilities involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

- (a) Dredging of over 50 cubic yards of material;
- (b) Reconstruction or maintenance of groins and similar shoreline protection structures;
- (c) Replacement of utility cables that must be buried under the surface of the bedlands; or
- (d) Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

**(4) Water rights.** Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of groundwater, for any purpose. The exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation.

**(5) Purchase or sale of real property.** The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to a specifically designated and authorized public use established by the public landowner and used by the public for that purpose.

(c) Leasing, granting an easement for, or otherwise authorizing the use of real property when the property use will remain essentially the same as the existing use for the term of the agreement, or when the use under the lease, easement or other authorization is otherwise exempted by this

chapter.

(6) **Land use decisions.** The following land use decisions shall be exempt:

(a) Land use decisions for exempt projects, except that rezones must comply with (c) of this subsection.

(b) Other land use decisions not qualified for exemption under subsection (a) (such as a home occupation or change of use) are exempt

provided:

(i) The authorized activities will be conducted within an existing building or facility qualifying for exemption under WAC 197-11-800 (1) and (2);

and

(ii) The activities will not change the character of the building or facility in a way that would remove it from an exempt class.

(c) Where an exempt project requires a rezone, the rezone is exempt only if:

(i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040;

(ii) The proposed rezone is consistent with and does not require an amendment to the comprehensive plan; and

(iii) The applicable comprehensive plan was previously subjected to environmental review and analysis through an EIS under the requirements of this chapter prior to adoption; and the EIS adequately addressed the environmental impacts of the rezone.

(d) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, and short plats or short subdivisions within the original short subdivision boundaries provided the cumulative divisions do not exceed the total lots allowed to be created under RCW 58.17.020. This exemption includes binding site plans authorized by RCW 58.17.035 up to the same number of lots allowed by the jurisdiction as a short subdivision.

(e) Granting of variance based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.

(f) Alteration of property lines as authorized by RCW 58.17.040(6).

(7) **Open burning.** Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

(8) **Clean Air Act.** The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

(9) **Water quality certifications.** The granting or denial of water quality certifications under the Federal Clean Water Act (Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1341) shall be exempt.

(10) **Activities of the state legislature.** All actions of the state legislature are exempted.

(11) **Judicial activity.** The following shall be exempt:

(a) All adjudicatory actions of the judicial branch.

(b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(12) **Enforcement and inspections.** The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by an agency of either private or public property for any purpose.

(c) All activities of fire departments and law enforcement agencies except physical construction activity.

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(13) **Business and other regulatory licenses.** The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities including, but not limited to, cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.

(d) All licenses to operate or engage in charitable or retail sales and service activities including, but not limited to, peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) All licenses for private security services including, but not limited to, detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) All licenses for vehicles for-hire and other vehicle related activities including, but not limited to, taxicabs, ambulances, and tow trucks: Provided, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(g) All licenses for food or drink services, sales, and distribution including, but not limited to, restaurants, liquor, and meat.

(h) All animal control licenses including, but not limited to, pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

(14) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: Provided, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

- (i) Adoptions or approvals of utility, transportation and solid waste disposal rates.
- (j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection.
- (k) Classification of land for current use taxation under chapter **84.34** RCW, and classification and grading of forest land under chapter **84.33** RCW.

(15) **Financial assistance grants.** The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

(16) **Local improvement districts and special purpose districts.** The formation of local improvement districts and special purpose districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-11-800 and **197-11-880**. A special district or special purpose district is a local government entity designated by the Revised Code of Washington (RCW) and is not a city, town, township, or county.

(17) **Information collection and research.** Basic data collection, research, resource evaluation, requests for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see WAC **197-11-070**.)

(18) **Acceptance of filings.** The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(19) **Procedural actions.** The proposal, amendment or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program shall be exempt if they are:

- (a) Relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment.
- (b) Text amendments resulting in no substantive changes respecting use or modification of the environment.
- (c) Agency SEPA procedures.

(20) **Reserved.**

(21) **Adoption of noise ordinances.** The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology under chapter **70.107** RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations, SEPA compliance may be limited to those items which differ from state regulations.

(22) **Review and comment actions.** Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(23) **Utilities.** The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All stormwater, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines 12 inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (up to and including 115,000 volts); within existing rights of way or developed utility corridors, all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station vault, pipe, or well: Additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: Provided, the chemicals used are approved by Washington state and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality.

(g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(h) All grants of franchises by agencies to utilities.

(i) All disposals of rights of way by utilities.

(24) **Natural resources management.** In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous 10 years.

(b) Licenses or approvals to remove firewood.

(c) Issuance of agricultural leases covering 160 contiguous acres or less.

(d) Issuance of leases for Christmas tree harvesting or brush picking.

(e) Issuance of leases for school sites.

(f) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(g) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than 12 campsites.

(h) Periodic use of chemical or mechanical means to maintain public park and recreational land: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality.

(i) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.

(j) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter **79.70** RCW.

(25) **Wireless service facilities.**

(a) The siting of wireless service facilities are exempt if:

(i) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures that does not substantially change the physical dimensions of such structures; or

(ii) The siting project involves constructing a wireless service tower less than 60 feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.

(b) For the purposes of this subsection:

(i) "Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(ii) "Wireless service facilities" means facilities for the provision of wireless services.

(iii) "Collocation" means the mounting or installation of equipment on an existing tower, building, structure for the purposes of either transmitting or receiving, or both, radio frequency signals for communication purposes.

(iv) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(v) "Substantially change the physical dimensions" means:

(A) The mounting of equipment on a structure that would increase the height of the structure by more than 10 percent, or 20 feet, whichever is greater; or

(B) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than 20 feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

(c) This exemption does not apply to projects within a critical area designated under GMA (RCW **36.70A.060**).

(26) **State transportation projects.** The following Washington department of transportation projects and activities shall be exempt: The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation, as long as the action:

(a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility.

(27) **Structurally deficient city, town and county bridges.** The repair, reconstruction, restoration, retrofitting, or replacement of a structurally deficient city, town or county bridge shall be exempt as long as the action:

(a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility.

"Structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency.

[Statutory Authority: RCW **43.21C.110** and 2022 c 246. WSR 23-01-119 (Order 22-08), § 197-11-800, filed 12/20/22, effective 1/20/23. Statutory Authority: RCW **43.21C.110**. WSR 16-13-012 (Order 15-09), § 197-11-800, filed 6/2/16, effective 7/3/16. Statutory Authority: RCW **43.21C.110** and **43.21C.100** [43.21C.170]. WSR 14-09-026 (Order 13-01), § 197-11-800, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW **43.21C.110**. WSR 13-02-065 (Order 12-01), § 197-11-800, filed 12/28/12, effective 1/28/13. Statutory Authority: RCW **43.21A.090**, chapter **43.21C** RCW, RCW **43.21C.035**, **43.21C.037**, **43.21C.038**, **43.21C.0381**, **43.21C.0382**, **43.21C.0383**, **43.21C.110**, **43.21C.222**. WSR 03-16-067 (Order 02-12), § 197-11-800, filed 8/1/03, effective 9/1/03. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW **43.21C.110**. WSR 97-21-030 (Order 95-16), § 197-11-800, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW **43.21C.110**. WSR 84-05-020 (Order DE 83-39), § 197-11-800, filed 2/10/84, effective 4/4/84.]

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<b>Eagle Protection</b>	<b>Proposed Planning Commission Action: Discussion Only</b>
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<b>Presented by:</b>	Town Planner
<b>Exhibits:</b>	None

**Summary:**

Commissioner Lee Sims has brought to the attention of the Town Mayor and Staff a lack of explicit protections to Eagles provided by the Town. The Town is home to several known Eagle nests. While Federal protections exist for eagles, the Town could do more in the way of protecting specific sites and making explicit the existing Federal protections for future development projects in the Town. Staff will discuss the general options as outlined by state and federal agencies.

Further Resources:

- [Washington Department of Fish and Wildlife](#)
- [Bald and Golden Eagle Protection Act](#)
- [USFWS Eagle Management Program](#)
- [WSR 17-02-084](#) (Includes change to the status of Eagle protection in WA)

**Action Items**

- Staff Presentation (10min)
- Discussion (20min)
- Vote (5min)

**Commission Options:**

- Take no action
- Continue Discussion
- Recommend to Council

**Recommended Motion:**

- I move to continue discussion at our next meeting
- I move to recommend that the Town Council add Eagle Protection as an item to the Planning Commission 2023 work plan as priority #\_.