

**TOWN OF YARROW POINT
ORDINANCE NO. 715**

AN ORDINANCE OF THE TOWN OF YARROW POINT, WASHINGTON, AMENDING YARROW POINT MUNICIPAL CODE TITLE 20 (SITE DEVELOPMENT CODE) TO ESTABLISH REGULATIONS RELATED TO TREES ON PRIVATE PROPERTY; AMENDING YARROW POINT MUNICIPAL CODE SECTION 12.26.020 (DEFINITIONS) TO UPDATE DEFINITIONS RELATED TO THE PUBLIC PROPERTY TREE CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Town of Yarrow Point (“Town”) has codified tree regulations for trees on public property at Yarrow Point Municipal Code Chapter 12.26 (Public Property Tree Code); and

WHEREAS, the Town does not have tree regulations related to trees on private property; and

WHEREAS, the Town recognizes that trees provide significant aesthetic, ecological and economic benefit to the community; and

WHEREAS, the Town desires to protect and preserve trees of significant size by adopting regulations regarding the removal and mitigation of such trees on private property; and

WHEREAS, the Town desires to add a new Chapter 20.22 to the YPMC to establish rules and regulations related to tree removal and mitigation on private property (“the Regulations”); and

WHEREAS, upon timely notice, the Town undertook a State Environmental Policy Act (SEPA) review of these regulations and issued a Determination of Non-Significance for this non-project action on September 23, 2021 and the Town received no comments on the same; and

WHEREAS, the Washington State Department of Commerce was provided a Notice of Intent to Adopt the proposed Regulations on October 13, 2021 and the Town received no comments on the same; and

WHEREAS, the proposed Regulations went before the Town of Yarrow Point Planning Commission for review, discussion, and consideration. Upon timely notice, a public hearing was held before the Planning Commission on September 20, 2021 and subsequently, the Planning Commission issued a recommendation that the Town Council adopt the regulations as presented herein; and

WHEREAS, based on careful consideration of the facts and law, including without limitation the public testimony received, the Planning Commission's recommendation dated September 20, 2021, and records and files with the office of the Town Clerk, the Yarrow Point Town Council finds that the proposed Regulations attached as Exhibit A and incorporated herein should be approved as presented.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF YARROW POINT, WASHINGTON AS FOLLOWS:

SECTION 1. The Town Council finds as follows:

A. The foregoing recitals are adopted as Findings of Fact in support of the adoption of this Ordinance.

B. The Regulations that are incorporated herein comply with the requirements of the Washington State Growth Management Act and the Town of Yarrow Point's municipal code.

SECTION 2. Title 20 of the Yarrow Point Municipal Code is amended by the addition of a new Chapter, Chapter 20.22 – Private Property Tree Code – as set forth in Exhibit A, attached to this Ordinance and incorporated by reference.

SECTION 3. Section 12.26.2020 is hereby amended to read as follows:

12.26.020 Definitions

Hazardous tree. ~~A tree that has been assessed by a Qualified Professional and found to be likely to fail and cause an unreasonable degree of injury, damage, or disruption. -any tree deemed a risk to public safety by a qualified professional. The standard for rating tree hazard shall be the International Society of Arboriculture 12 point rating system.~~

Protected tree. ~~means a~~ Any tree within the Town rights-of-way or other public property, either planted by the town or having a diameter of four inches or larger measured at four and one-half feet above the ground, but not to include hazardous trees.

Qualified professional. ~~means an~~ An individual with relevant education and training in arboriculture or urban forestry. The individual shall ~~must~~ be an arborist certified by the International Society of Arboriculture (ISA) or a registered consulting arborist from the American Society of Consulting Arborists (ASCA). A qualified professional shall ~~must~~ possess the ability to perform tree risk assessments, as well as experience working directly with the protection of trees during construction.

SECTION 4. If any section, subsection, sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this Ordinance.

SECTION 5. The Town Clerk-Treasurer and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 6. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the Town. This Ordinance shall take full force and effect seventy-five (75) days after the date of publication.

Approved by the Town Council of the Town of Yarrow Point on the 14th day of December, 2021, and signed in authentication of its passage the 15th day of December, 2021.


Dicker Cahill, Mayor

Approved as to form:
Ogden Murphy Wallace, PLLC


Scott M. Missall, Town Attorney

Attest/Authenticated:


Bonnie Ritter, Town Clerk-Treasurer

PUBLISHED: December 20, 2021
EFFECTIVE DATE: March 6, 2022
ORDINANCE NO.: 715



EXHIBIT A

Chapter 20.22
Private Property Tree Code

20.22.010	Title, Purpose, and Intent
20.22.020	Definitions
20.22.030	Tree Removal and Minimum Significant Tree Density
20.22.040	Exemptions
20.22.050	Tree Removal Permit – Application Process
20.22.060	Tree Removal Permit - Notification
20.22.070	Tree Removal Permit - Expiration
20.22.080	Mitigation
20.22.090	Construction Site Tree Protection
20.22.100	Appeals
20.22.110	Violation – Penalty for Unpermitted Tree Removal

20.22.010 Title, Purpose, and Intent

- A. Title. This chapter shall be known as the Private Property Tree Code of the Town of Yarrow Point.
- B. Purpose and Intent. The general purpose of the private property tree code is to protect, preserve, and replenish significant trees on private property in Yarrow Point in order to promote the public health, safety, and general welfare of the residents of the Town. The private property tree code is intended to:
1. Retain the Town’s existing character;
 2. Maintain an equitable distribution of significant trees on properties throughout the Town;
 3. Mitigate the consequences of significant tree removal through tree replacement;
 4. Implement the goals and objectives of the Town’s Comprehensive Plan, the Town’s Shoreline Master Program, and the State Environmental Policy Act.

20.22.020 Definitions

- A. Caliper. The American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six (6) inches above the ground for up to and including 4-inch caliper size and 12 inches above the ground for larger sizes.
- B. Crown. The area of a tree containing leaf or needle-bearing branches.
- C. Diameter at Breast Height (DBH). The diameter or thickness of a tree trunk measured at 4.5 feet from the ground.
- D. Hazardous Tree. Any significant tree is considered hazardous when it has been assessed by a Qualified Professional and found to be likely to fail and cause an unacceptable degree of injury, damage, or disruption.
- E. Mitigation Tree Species. Mitigation trees shall comply with the following: any evergreen tree species that has the potential to grow to the size of a significant tree or any deciduous tree species that has the potential to grow to the size of a significant tree. Species considered unsuitable for mitigation are identified in a document entitled "Yarrow Point Mitigation Vegetation," on file with the Town Clerk.
- F. Pruning. The act of trimming or lopping off what is superfluous; specifically, the act of cutting off branches or parts of trees with a view to strengthening those that remain or to bringing the tree into a desired shape. Pruning that results in the removal of at least half of the live crown shall be considered tree removal.
- G. Qualified Professional. An individual with relevant education and training in arboriculture or urban forestry. The individual shall be an arborist certified by the International society of Arboriculture (ISA) or a registered consulting arborist from the American Society of Consulting Arborists (ASCA). A qualified professional shall possess the ability to perform tree risk assessments, as well as experience working directly with the protection of trees during construction.
- H. Significant Tree - Any tree that is at least eighteen (18) inches in diameter at DBH, as measured at 4.5 feet from the ground OR any tree planted as mitigation.

20.22.030 Tree Removal and Minimum Significant Tree Density

- A. Removal. A tree removal permit shall be required for the removal of any significant tree.
- B. Density. A minimum of one significant tree per 5,000 square feet of property shall be required and maintained following the removal of any significant tree.
- C. The required tree density may be accomplished through the preservation and maintenance of existing stock, or through the planting of mitigation trees. When calculating the required number of trees per property, fractional tree portions shall be rounded up or down to the nearest whole number.

D. Significant tree trunks that straddle a private property line shall be assigned a tree density value of 0.49 for each property.

20.22.040 Exemptions

A. Emergency Tree Removal. Any hazardous tree that poses an imminent threat to life or property may be removed prior to the issuance of a tree removal permit. The Town shall be notified within seven (7) days of the emergency tree removal with evidence of the threat or status justifying the removal of the significant tree. The notification of emergency removal shall contain a site plan showing remaining significant trees on the lot with a calculation demonstrating compliance with the minimum significant tree density. The standard of one significant tree per 5,000 square feet of property, i.e. Tree Density, shall be documented and may be fulfilled through the remaining trees on site or through planting of mitigation trees.

B. Utility Maintenance. Trees may be removed by the Town or utility provider in situations involving actual interruption of services provided by a utility only if pruning cannot solve utility service issues. Mitigation shall be required by the underlying property owner pursuant to YPMC 20.22.080 (Mitigation.) Utility maintenance within the right of way shall conform to the Town's Public Property Tree Code (YPMC 12.26).

20.22.050 Tree removal permit – Application process

A. Any property owner intending to remove a significant tree shall submit a tree removal permit on a form provided by the Town. The application shall include:

1. The name, address, and contact information of the property owner and/or agent;
2. A site plan showing the location, size, and species of all significant trees, including those proposed for removal, on the property. For applications associated with construction or site development, the site plan must also label and identify all trees within 20' of the proposed construction and/or site development activity.
3. A tree protection plan per 20.22.090 (Construction Site Tree Protection) for applications associated with construction or site development.
4. A mitigation plan, if required per 20.22.080 (Mitigation), indicating the location and species for all trees to be planted.
5. The current permit fee, as established by the Town Council.

B. Identification on Site. Concurrent with submittal of the tree removal permit application, the owner shall identify every significant tree proposed for removal by placing a yellow tape around the circumference of the tree at the DBH.

C. Shoreline Jurisdiction. Properties located within the Town's shoreline jurisdiction (200' landward of Lake Washington) are subject to additional tree removal and replacement standards per the Town of Yarrow Point Shoreline Master Program Section 5.6 - Vegetation Management.

D. Review by Staff and/or Town Arborist. Except in cases of emergency tree removal, the tree removal application shall be reviewed within twenty-eight days in the case of permits not associated with development activity OR shall be reviewed and issued concurrently with the site development or building permit, as applicable.

20.22.060 Tree Removal Permit - Notification

A Notice of the proposed removal of one or more significant trees shall be posted within five business days of receipt of a complete application. The notice shall be posted by the Town on site, on the appropriate mailbox pagoda, and on the Town's website. The Town shall send a letter via US mail to all property owners abutting the site. The letter shall include a site plan with all trees identified for removal. A minimum two-week notification period shall be required prior to issuance of any tree removal permit.

20.22.070 Tree Removal Permit – Expiration

A tree removal permit shall expire six months from the date of issue, requiring reissuance of a new permit..

20.22.080 Mitigation

A. Whenever a significant tree is planned for removal pursuant to an issued tree removal permit, the applicant shall demonstrate that, after the removal of the tree(s), the property will meet the requirement of YPMC 20.22.030 (Tree Removal and Minimum Significant Tree Density.) Should the property fail to meet this requirement, the applicant shall provide a tree mitigation plan that satisfies the requirements of YPMC 20.22.030 (Tree Removal and Minimum Significant Tree Density.)

B. Mitigation trees shall be a minimum of ten feet tall OR have a 3" caliper, and have a full well-developed crown.

C. Mitigation requirements shall be met within six months of tree removal. In the case of concurrent new construction, mitigation requirements shall be met prior to final inspection. Trees planted as mitigation shall be maintained with adequate water and care to survive a three-year warranty period or be replaced.

20.22.090 Construction Site Tree Protection

- A. All significant trees to be retained on a construction site, and all trees on the adjacent and otherwise affected Town rights-of-way, and all trees on adjacent private properties impacted by site development as regulated under Title 20 of the Yarrow Point Municipal Code, or construction as regulated under Title 15 of the Yarrow Point Municipal Code, shall be protected during such activity.
- B. The property owner shall submit a report prepared by a qualified professional that evaluates the significant trees on site, as well as all trees in the adjacent areas impacted by the proposed construction. Tree-protection measures shall be clearly described and illustrated on a site plan. Best management practices shall be employed as referenced in “Tree Protection on Construction and Development Sites: A Best Management Guidebook for the Pacific Northwest,” or other such guidance as approved by the Town Arborist.
- C. The Town may waive the requirement for a report when it is determined by the Town staff that the scope of the project will not impact the significant tree(s) on site or any trees on adjacent properties.
- D. A stop work order may be issued by the Building Official if site tree protection guidelines are not followed.

20.22.100 Appeals

Any tree permit applicant aggrieved by any action of the Town relating to a tree removal permit may, within ten days of such action, file a notice of appeal to the Town Council, setting forth the reasons for such appeal and the relief requested. The Town Council shall hear and determine the matter and may affirm, modify, or disaffirm the administrative decision within sixty days of timely appeal.

20.22.110 Violation – Penalty for Unpermitted Tree Removal

- A. A violation of any of the provisions of this chapter shall be a civil violation and any person, corporation or other entity that violates this chapter shall receive a fine of \$10,000 per violation, plus \$1,000 per inch of diameter (DBH) for each significant tree over 18” DBH that is removed without a permit; provided that the maximum fine for the removal of each significant tree shall not exceed \$25,000. It shall be a separate offense for each and every significant tree removed in violation of this chapter.
- B. In addition to the penalty set forth in subsection A of this section, significant trees that were unlawfully removed or damaged shall be replaced in accordance with YPMC 20.22.080 (Mitigation.)

C. Fines levied under this chapter shall be deposited into a tree mitigation account and shall be used by the Town for acquiring, maintaining, and preserving wooded areas, and for the planting and maintenance of trees with the Town's public places and rights-of-way.

RECEIVED

JAN 03 2022

TOWN OF YARROW POINT
Clerk's Office

The Seattle Times

AFFIDAVIT OF PUBLICATION

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

YARROW POINT, WASHINGTON
ORDINANCE NO. 715

On the 14th day of December 2021, the Town Council of the Town of Yarrow Point, Washington passed Ordinance No. 715. A summary of the content of said ordinance, consisting of the title is as follows:

AN ORDINANCE OF THE TOWN OF YARROW POINT, WASHINGTON, AMENDING YARROW POINT MUNICIPAL CODE TITLE 20 (SITE DEVELOPMENT CODE) TO ESTABLISH REGULATIONS RELATED TO TREES ON PRIVATE PROPERTY; AMENDING YARROW POINT MUNICIPAL CODE SECTION 12.26.020 (DEFINITIONS) TO UPDATE DEFINITIONS RELATED TO THE PUBLIC PROPERTY TREE CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request

Bonnie Ritter, Clerk-Treasurer

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.

12/20/2021

Agent MAUREEN DUGGAN Signature Maureen Duggan

Subscribed and sworn to before me on 12/20/21

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

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