

YARROW POINT
JOINT TOWN COUNCIL AND PLANNING COMMISSION SPECIAL MEETING AGENDA
October 26, 2023
7:00 p.m.
Town Hall 4030 95th Ave NE. Yarrow Point, WA. 98004
1-253-215-8782 Meeting ID: 833 6411 6281#

As this is a Joint Town Council and Planning Commission Special Meeting, there is not an opportunity for public comment. The public may listen to the special meeting by attending in person or joining virtually:

Join on your computer or mobile app

Or call in (audio only)

1-253-215-8782

Meeting ID: 833 6411 6281#

<https://us02web.zoom.us/j/83364116281>

- 1. CALL TO ORDER:** Mayor, Katy Kinney Harris

Commission Chairperson, Carl Hellings

- 2. ROLL CALL:** Councilmembers Stephan Lagerholm, Carl Scandella, Chuck Porter, Andy Valaas, Kathy Smith

Commissioners Chuck Hirsch, David Feller, Jeffrey Shiu, Lee Sims

- 3. REGULAR BUSINESS:**
 - 3.1 – Private property tree code discussion

 - 3.2 – Eagle protection discussion

- 4. ADJOURNMENT**

Private Property Tree Code	Proposed Action: Discussion and Direction to Staff
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Presented by:	Town Planner
Exhibits:	Discussion Outline (Single Document for Trees and Eagles) TYP Existing Private Property Tree Code

Background:

As a result of recent development activities in the Town a number of community members have brought to the attention of staff and elected officials that our current tree code does not protect trees in a manner which those residents would like to see. A petition created by residents to revise the current tree code in a manner which would protect trees in the Town has collected 75 signatures so far. The Town council and planning commission will hold a meeting to discuss the tree code.

Action Items

- Staff Presentation (15min)
- Discussion (30min)
- Vote (5min)

Options:

- Take no action
- Continue Discussion at a later meeting
- Direct Staff to research and revise private property tree code
- Add private property tree code to Planning Commission work plan

Recommended Motion:

- I move to add the private property tree code to the planning commission work plan and to direct staff to research and revise the private property tree code as discussed during this meeting.



Town of Yarrow Point

Discussion Outline for:

Private Property Tree Code

Eagle Protections Code

Meeting Objectives:

- To discuss the private property tree code and draft eagle protections.
 - To determine if the tree code should be revised.
 - To determine the level of restriction created by the eagle protection code
 - To direct staff on next steps for the tree code and eagle protection code.
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Tree Code

Background

As a result of recent development activities in the Town a number of community members have brought to the attention of staff and elected officials that our current tree code does not protect trees in a manner which those residents would like to see. A petition created by residents to revise the current tree code in a manner which would protect trees in the Town has collected 75 signatures so far.

History of Existing Code

The Town passed a private property tree code in 2021. That code has been in effect since March 6, 2022. To date, the jurisdiction has received 9 permits, most of those have been for the removal of hazardous trees. The Council and Planning Commission have had extensive discussions regarding the tree code. Both the property rights and tree retention/preservation perspectives were considered and extensively discussed before the current code was approved.

Possible Approaches

1. Leave the Tree code as is.
 - Staff recommendation: See approach #3.
2. Remove the Tree code.
 - Remove the tree code as it creates an administrative burden for the Town without providing for actual tree protections.
3. Update the code language for clarity and administration.
 - Revise the code, FAQ, and forms so that the code is clear, and so that the administration of the code is more streamlined.
4. Add Permit fees to cover administrative costs. May be paired with other approaches.
 - Staff recommendation: Updating the code per approach #3, add fees, and update the forms. Fees should be based on cost recovery for the Town:
 - Administrative Staff Time
 - Planner Time
 - Town Arborist Time
5. Update the tree code to incorporate additional tree protections. A list of elements which may be used and incorporated in this approach is detailed below. The list is drawn from typical strategies for protecting trees, codes from regional jurisdictions, and recommendations from concerned residents.
 - Required tree retention (Life, health, and safety exclusions would apply)
 - “X” trunk diameter inches per “Y” square feet of lot minimum
 - “X” percent of lot canopy cover (Bonus percent could be given to larger trees to incentivize retention)
 - “X” number of trees per “Y” square feet (iteration on what is already in the code)
 - No removal of trees with “X” classification
 - No removal of trees with DHB above “X” inches
 - Trees in the setback to have more protections
 - Additional Tree Classification
 - Significant tree (Current classification: 18” DBH)
 - It has been proposed to lower this number to include more trees
 - Heritage tree
 - Landmark tree
 - Historic tree
 - Mitigation Trees
 - Larger size trees (Currently 10’ high, 3” caliper at base)
 - Defined species to plant
 - Define restricted species

- Incentives for Tree Retention
 - Building Setbacks
 - Lot coverage
 - Height limits
 - Accessory uses
 - Parking requirements
 - Cash
- Increased penalties for violations
 - Increase fines
- Staff recommendation: Incorporate elements from all the above categories to create a holistic approach to protecting the Town's trees, while allowing for reasonable development practices to occur.

Community Outreach and Engagement

Consideration of public engagement and outreach beyond the typical noticing of Council and Planning Commission meetings may need to be considered as this topic has both broad implications and complex community feedback. Open house events and discussion forums may be appropriate given the community context for this topic. Additional noticing including mailers may be considered as part of the process to insure that the process is inclusive of all stakeholders.

Interaction with Other Codes

The tree code interacts with our hedge code, and if an eagle protection code is passed it will have overlapping elements with that as well. Staff recommends that trees are addressed in the code as a standalone topic as much as possible. Eagles and associated eagle habitat being regulated by the eagle protection code, and hedges as part of the hedge code. If the town proposes a change to the private property tree code, relevant cross references and revisions will be incorporated during the update process.

Eagle Code

Background

In April of 2023, the topic of eagle protections was first discussed as a possible matter for consideration at the planning commission meeting. At the regular council meeting in May of 2023, council added eagle protections to the planning commissions 2023 work plan. Since that time the planning commission has been researching, discussing, soliciting feedback from experts, and hearing public comments.

Staff has written a draft code at the direction of the planning commission (included in this packet). The goal in developing Town regulations to protect eagles is two fold. First it is to inform and facilitate compliance for property owners and persons doing work in the Town, with the existing federal regulations. This is done through the development of Maps of Eagle habitat and FAQs. Second is to create code which incorporates the federal permitting process into the Town's permitting process. If desired the Town may adopt code and guidelines which are as restrictive or more restrictive than federal and state regulations for the protection of eagles. Even with no action taken, the federal and state protections, their enforcement, and permitting still applies.

Approaches currently under consideration

Current draft code approach

- Require residents engaging in development activities within 660' of known eagle habitat to obtain a USFWS eagle take permit, or provide a written determination from USFWS that such a permit is not needed.
- Map locations of known Eagle Habitat
- Fine residents for non-compliance

Additional restrictions on Eagle Habitat

- Optional draft language (Included in packet) to have known eagle nests observed/studied by a qualified professional who would determine what other elements in the vicinity can be defined as eagle habitat. Providing documentation and a report with locations to the Town.
- Restrict the actions which can be taken to alter eagle habitat which was defined in the report.

Community Outreach and Engagement

The Planning Commission has directed staff to draft a letter for the mayor to send to residents which outlines the community concerns and intent of the code development process. The letter would also contain a request of the residents to provide feedback on locations of eagle nests. The commission also directed staff to create an online portal which is setup to receive the feedback from residents. Before such action is taken by the mayor and staff the Council is asked to discuss and approve such direction.

**Chapter 20.22
PRIVATE PROPERTY TREE CODE**

Sections:

[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 Tree mitigation.](#)

[20.22.085 Verification required.](#)

[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. (Ord. 715 § 2 (Exh. A), 2021)

20.22.020 Definitions.

- A. "Caliper" means the American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes.
- B. "Crown" means the area of a tree containing leaf- or needle-bearing branches.
- C. "Diameter at breast height (DBH)" means the diameter or thickness of a tree trunk measured at four and one-half 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" means 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" means 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" means any tree that is at least 18 inches in diameter at DBH, as measured at four and one-half feet from the ground or any tree planted as mitigation. (Ord. 715 § 2 (Exh. A), 2021)

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. (Ord. 715 § 2 (Exh. A), 2021)

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 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 (Chapter 12.26 YPMC). (Ord. 715 § 2 (Exh. A), 2021)

20.22.050 Tree removal permit – Application process.

A. Any property owner intending to remove a significant tree shall submit a tree removal permit application 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 feet of the proposed construction and/or site development activity.
3. A tree protection plan per YPMC [20.22.090](#) (Construction site tree protection) for applications associated with construction or site development.
4. A mitigation plan, if required per YPMC [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 feet 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 28 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. (Ord. 715 § 2 (Exh. A), 2021)

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 U.S. 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. (Ord. 715 § 2 (Exh. A), 2021)

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. (Ord. 715 § 2 (Exh. A), 2021)

20.22.080 Tree mitigation.

A. Whenever a significant tree is planned for removal pursuant to an issued tree removal permit, the applicant shall first demonstrate to the town that, after the removal of the significant tree(s), the property will meet the requirements 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). When approved by the town, the tree mitigation plan shall be kept on file as a town record.

B. Mitigation trees shall be a minimum of 10 feet tall or have a three-inch caliper, and shall have a full and well developed crown.

C. Tree mitigation requirements shall be met within six months of removing any significant tree. In the case of concurrent new construction, mitigation requirements shall be met prior to final inspection.

D. Trees planted as mitigation trees shall be maintained with adequate water and care to survive a minimum three-year warranty period. Prior to planting a mitigation tree, the applicant shall post a warranty bond in a form and amount acceptable to the town to ensure all trees planted as mitigation survive the warranty period. Mitigation trees that fail to survive the warranty period shall be replaced by the property owner with new

mitigation trees within 90 days in accordance with the YPMC. Mitigation trees shall be maintained in a healthy condition for their lifetime. (Ord. 723 § 2, 2022; Ord. 715 § 2 (Exh. A), 2021)

20.22.085 Verification required.

Within 90 days of purchasing a property, and also prior to removing any trees on the property, the property owner shall contact the town and verify with the town whether an approved mitigation planting plan for the property is on file with the town. Failure of the property owner to do so is a code violation and shall not relieve a property owner of compliance with the provisions of this chapter, nor shall such failure serve as a defense to enforcement of this chapter. (Ord. 723 § 3, 2022)

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 YPMC Title 20, or construction as regulated under YPMC Title 15, 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. (Ord. 715 § 2 (Exh. A), 2021)

20.22.100 Appeals.

Any tree permit applicant aggrieved by any action of the town relating to a tree removal permit may, within 10 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 60 days of timely appeal. (Ord. 715 § 2 (Exh. A), 2021)

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 inches 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](#) (Tree 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 within the town's public places and rights-of-way. (Ord. 715 § 2 (Exh. A), 2021)

Eagle Protection	Proposed Action: Discussion and Direction to Staff
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Presented by:	Town Planner
Exhibits:	Discussion Outline (Single Document for Trees and Eagles) Draft Eagle Protection Code Eagle Permit FAQ Eagle Proximity Map

Background:

In April of 2023, the topic of eagle protections was first discussed as a possible matter for consideration at the planning commission meeting. At the regular council meeting in May of 2023, council added eagle protections to the planning commissions 2023 work plan. Since that time the planning commission has been researching, discussing, soliciting feedback from experts, and hearing public comments.

Staff has written a draft code at the direction of the planning commission. The goal in developing Town regulations to protect eagles is two fold. First it is to inform and facilitate compliance for property owners and persons doing work in the Town, with the existing federal regulations.

Action Items:

- Staff Presentation (10min)
- Discussion (25min)
- Vote (5min)

Options:

- Take no action
- Continue Discussion at a later meeting
- Direct Staff on level of restrictions as part of eagle protection code
- Direct Staff regarding Eagle Protections Letter and Community Survey

Recommended Motion:

- I move to direct staff to revise the draft eagle protections code as discussed during this meeting.
- I move to direct the mayor to take the actions requested by the planning commission.

Yarrow Point Municipal Code
Title 19 Draft Amendments

New: Chapter 19.06 Eagle Protection

19.06.010 Purpose, and intent

The purpose of this chapter is to protect eagles within the Town of Yarrow Point, which are seen as a community resource by requiring property owners to comply with the U.S. Bald & Golden Eagle Protection Act and the U.S. Migratory Bird Treaty Act.

19.06.020 Definitions

“Applicant” means a person who applies for any permit or approval to do anything governed by Yarrow Point Municipal Code chapter [insert development chapter codes] and who is the owner of the subject property, the authorized agent of the owner, or the Town.

“Development” shall be defined as in YPMC 17.08.010

“Disturb” means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, one or more of the following to occur:

- (1) injury to an eagle,
- (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or
- (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

“Eagle Habitat” means an eagle nest, foraging area, or communal roost site that eagles rely on for breeding, sheltering, or feeding, and the landscape features surrounding such nest, foraging area, or roost site that are essential for the continued viability of the site for breeding, feeding, or sheltering eagles. .

“Eagle nest” means any assemblage of materials built, maintained, or used by bald eagles or golden eagles for the purpose of reproduction.

“Highlighted Parcel” means a parcel which has been highlighted on the Eagle Habitat Map as being within 660 feet of Eagle Habitat.

“Known Eagle Habitat” means Eagle Habitat which is open and notorious in the community

“Qualified professional” means an individual with relevant education and training in biology and ecology. The individual shall be a biologist or ecologist with formal training in habitat surveys for birds. A qualified professional shall possess the ability to perform eagle habitat assessment, as well as experience working directly with the USFWS migratory bird office in association with Eagle Take Permits.

“Take” means pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb.

19.06.030 Statutes Incorporated by Reference

The following federal statutes are incorporated by reference:

[Legal review for definition continuity is still in progress]

50 CFR Part 21

50 CFR Part 22

19.06.040 Applicability

- A. This Chapter applies to all parcels within the Town of Yarrow Point.
- B. Parcels highlighted on the Eagle Habitat Map are those which have been confirmed as being within the 660 foot radius of known or verified Eagle Habitat and shall comply with YPMC Section 19.06.060 of this chapter.

19.06.050 Location of Eagle Habitat

- A. The Town shall prepare an Eagle Habitat Map.
 - 1. The Eagle Habitat Map shall include the entire Town and contain the following information: jurisdictional boundaries of the Town, roads, parcels, waterways, locations of known or verified eagle habitat, highlighted parcels.
 - 2. The Eagle Habitat Map may be maintained and updated by the Town on an annual basis to modify or update known or verified Eagle Habitat Locations.
- B. Eagle habitat locations not included on the Eagle Habitat Map may be reported to the Town by residents and members of the public. Reports may be submitted to the Town in writing. Reports shall include sufficient detail for the Town to verify the Eagle Habitat from a vantage point located within the public right of way or from private land if permission is granted.
- C. Upon receipt of the report, the Town may verify the Eagle Habitat by conducting a visual inspection of the reported site to confirm whether the site is an Eagle Habitat. If the Town determines that the site is an Eagle Habitat, the Town shall update the Eagle Habitat Map in accordance with YPMC 19.06.050(A).
- D. Prior to undertaking any development, the applicant shall review the Eagle Habitat Map to determine if the property includes an Eagle Habitat within 660' of anywhere on the property. If the property is not shown to have Eagle Habitat within 660', the applicant shall contact the Town to determine if there are known or verified Eagle Habitats not yet added to the Eagle Habitat Map.
- E. The Town may choose to further survey and define specific eagle habitat in proximity to an eagle nest by employing a qualified professional to conduct field work in the form of observation and documentation of eagle activity. The specific survey process would be defined by the Town based on site specific conditions. Such a report would contain at least the following information.
 - 1. The culmination of the field work would yield a report that the Town may use for eagle protection.
 - 2. The report would identify habitat based on USFWS and industry standard guidelines.
 - 3. written and photo documentation would be included to provide a basis for the habitat determinations
 - 4. GPS coordinates of habitat locations would be provided and overlaid onto aerial photographs to inform the town's eagle habitat maps
 - 5.
- F. Eagle Habitat as identified by a survey conducted by a qualified professional shall at the Towns discretion be protected from development or the impacts of development so that it may be maintained as habitat for as long as eagles frequent the habitat.

19.06.060 Exemptions

- A. Eagle habitat which is found to be in a hazardous tree as defined in YPMC 20.22.020 shall be eligible for removal under the tree permit process, in conjunction with USFWS eagle take permit process.

19.06.070 Permit requirements

- A. Any development which may disturb Eagle Habitat, including but not limited to work which requires a building permit, site development permit, ROW permit, shoreline permit, or tree permit, and is within the 660 foot radius of an Eagle Habitat shall consult the regional U.S. Fish and Wildlife Service Migratory Bird Permit Office to determine if an Incidental Take permit is necessary.
 - 1. If an Incidental Take permit is deemed necessary, the applicant shall provide the approved Incidental take permit to the Town before the Town issues any required permits.
 - 2. If an Incidental Take permit is not deemed necessary by the USFWS, the applicant shall submit to the Town such a determination from the USFWS prior to the Town issuing any Town permits.
- B. Pursuant to 50 CFR § 22.80 (c), USFWS permit holders shall comply with all avoidance, minimization, or other mitigation measures specified in the terms of the Incidental Take permit to mitigate detrimental effects on eagles, including indirect and cumulative effects, of the permitted take. Annual reports and mitigation plans, if required by USFWS, will also be sent to the Town for its records.

19.06.080 Enforcement

- A. It shall be unlawful for any person to build, erect, construct, alter, rebuild, renovate, enlarge or expand any building, structure or use within the 660 foot radius of Eagle Habitat in violation of the provisions of this chapter. Any violation of this chapter may result in a fine not to exceed \$1,000.00 and may be subject to enforcement actions set forth in YPMC chapter 1.08.



Town of Yarrow Point

Eagle Protections FAQs *(Updated 10-12-23)*

The Town is aware of bald eagles nesting and roosting in the Town. These eagles are appreciated by residents, visitors, and enthusiasts alike. The goal of these FAQs is to aid property owners in navigating the long standing federal laws, regulations, and permitting process. The Town intends to provide a clearer path to Federal compliance and to protect the eagles' habitat.

How is the Town involved?

The Town is developing municipal code amendments to address the protection of eagles in line with existing federal law. The goal is to help residents and developers remain compliant with federal regulations. The Town feels it is important to heighten the awareness of residents and agents representing sellers/buyers, of the federal laws protecting Bald Eagles. These laws have played a vital role in safeguarding the habitat and populations of bald eagles across the United States, including Lake Washington. Regardless of whether code amendments pass or not, these regulations are in effect at the federal level and remain relevant.

What is an Incidental Take permit and what does it cost?

The Incidental Take permit is a document granting permission to undertake projects that might result in an unintentional disturbance to protected wildlife. The provisions protect a wide array of migratory birds and eagles around the country. These permits are issued by the United States Fish and Wildlife Service (USFWS) under the provisions laid out in the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) and the Migratory Bird Protection Act (16 U.S.C. 703-712). The permit fee is \$500 as of October 2023.

What is its purpose of the Incidental Take Permit?

These permits intend to protect and preserve at-risk bird populations by determining the impact of development on habitat, migration, nesting, and roosting patterns. Permits are accompanied by measures that intend to avoid, minimize, and/or mitigate development impacts where these activities put wildlife at risk. These measures may include, but are not limited to, payment into an established conservation fund or bank; enhancement or restoration of degraded or a former habitat; adjustment of development timelines; and long-term monitoring of the affected habitat for changes in population.

Who needs an Incidental take permit?

The USFWS recommends that projects within 660 feet of a nest or roost reach out to the local USFWS Permit Office at 503-872-2715 or permitsRIMB@fws.gov to determine if a permit is required for your project. Tree removal permits, shoreline substantial development permits, site development permits, building permits, roof permits, and similar activities that are not permitted could serve as triggers to consult with the USFWS.

What projects are significant enough to require a permit?

There is no specific threshold for a project which may require an incidental permit. The determination is based on the likelihood of a project within 660' of Eagle habitat to adversely impact that habitat. Projects which include tree removal, loud equipment, or construction noise are common projects which may require a permit. Residents should review the "*Pacific Region Bald Eagle Incidental Take (Disturbance) Permit Decision Tree for Home Construction Projects*" which is linked below and then contact the USFWS migratory bird office whose information is listed below.

Do I need an Incidental take permit to cut down a tree on my property?

If you are within 660' of known Eagle habitat you may be required to get an incidental take permit. Please contact the USFWS to help you make this determination. The "*Pacific Region Bald Eagle Incidental Take (Disturbance) Permit Decision Tree for Home Construction Projects*" is linked below.

What are the steps to getting an incidental take permit?

Once you have determined that an incidental take permit is required the general process is as follows:

1. A work plan must be developed by the applicant for their project. This may include a narrative description, site plans and other pertinent information.
2. Fill out Submit the permit application to the USFWS (See links below for application website). Notify the Town of the application.
Many environmental firms in our region work as agents to property owners in submitting and procuring the USFWS permit.
3. Receive the permit and mitigation guidance, or written correspondence from USFWS indicating the permit and mitigation is not needed.
4. Conduct work in accordance with the permit and mitigation.
5. Report on the project to USFWS using their annual report forms
6. Monitor and report on habitat status based on guidance from USFWS

How long does it typically take to get an Incidental take permit?

Permit timelines vary depending on the complexity of the project, specific scope, and the quality/completeness of the application materials. Complete applications needing little to no back and forth revisions are often issued within 30 days.

Is there an eagles nest near my property?

The Town has developed a known eagle habitat map which highlights properties within 660' and 330' of known habitat. A copy is available at town hall or on our website. This map is meant to act as a starting point for residents, there may be eagle habitat which the Town has not documented in proximity to your project. As the applicant, you are responsible for determining if there are eagle nest(s) near your project and, if so, where the eagle nest(s) are located in relation to your activity. The USFWS does not keep records of the locations of eagle nests.

What does a mitigation plan for a New Single Family Residence Project typically look like?

Permits specify required avoidance, minimization, and mitigation measures. A general example might include but not limited to recommendations and guidance as described below:

1. To the extent possible, activities must be:
 - a. Conducted at the furthest possible distance from the nest
 - b. Started at the furthest point and gradually implemented in the direction of the nest
 - c. Conducted between Sept 1 and Dec 31
2. Dates of activity
 - a. Jan 1 and Jun 19: No exterior work closer than 330' from the nest
 - b. June 20 and Aug 31*: No exterior work closer than 100' from the nest
 - c. Sept 1 and Dec 31: No restrictions between these dates
3. Daytime work hours
 - a. Jan 1 to Aug 31*: Exterior work limited to between 2 hours after sunrise to 2 hours before sunset
 - b. Sept 1 and Dec 31: No work hour restrictions
4. Visual barriers
 - a. Jan 1 and Aug 31*: Retain any existing visual barrier between the activity and the nest
 - b. Sept 1 and Dec 31: No visual barrier restrictions
5. Landscape alteration (including site preparation, overstory vegetation clearing or trimming, heavy equipment use, etc.)
 - a. Jan 1 and Aug 31*: No landscape alteration closer than 330' from the nest
 - b. Sept 1 and Dec 31: No landscape alteration restrictions
 - c. Landscape alteration must not affect the survivability of the nest tree. Additional permits are required for the take of trees with eagle nests.
**Aug 31 or until young are no longer present in the nest*

What are the federal penalties?

A violation of the Bald and Golden Eagle Protection Act can result in a fine of \$100,000, imprisonment for one year, or both for a first offense. Penalties increase substantially for additional offenses, and a second violation of the Act is a felony, incurring a penalty of up to \$250,000 and two years imprisonment.

A violation of the Migratory Bird Protection Act can result in fines up to \$5,000 and or imprisonment for not more than six months for a misdemeanor offense. Felony offenses may incur fines up to \$250,000 and/or imprisonment for not more than two years.

Who do I report a violation to?

Please contact the USFWS Office of Law Enforcement using the contact information listed below. Please notify the Town of violations as well.

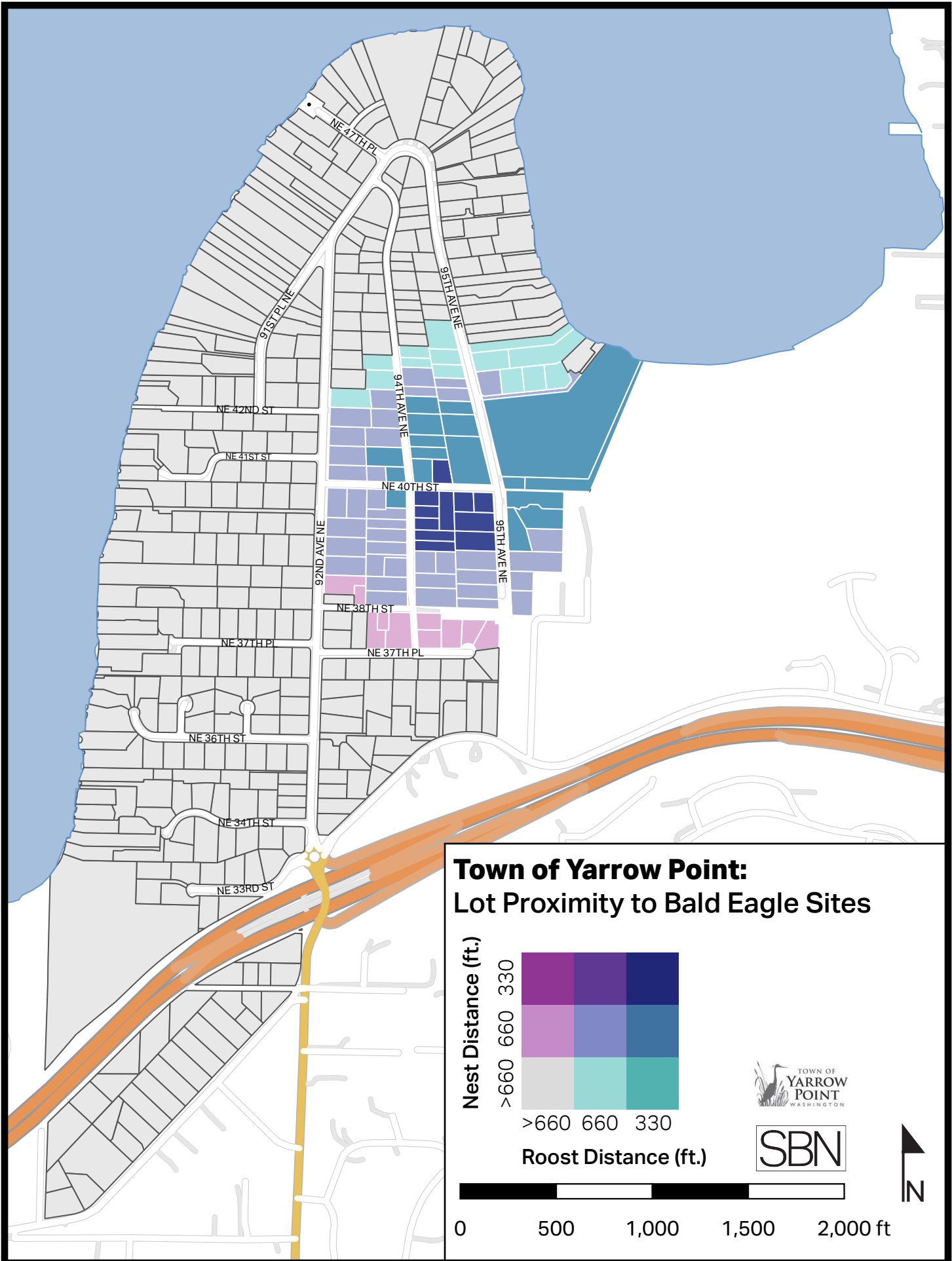
Additional USFWS Resources for Residents and Agents:

- [Incidental Take Permit Page](#)
- [Pacific Region Bald Eagle Incidental Take \(Disturbance\) Permit - Decision Tree for Home Construction Projects](#)
- [National Bald Eagle Management Guidelines](#)
- [Migratory Bird Program](#)
- [Do I need an Eagle Take Permit?](#)

USFWS Contact Information:

U.S. Fish and Wildlife Service
Migratory Bird Permit Office
911 N.E. 11th Avenue
Portland, OR 97232-4181
Tel: (503) 872-2715
Email: permitsR1MB@fws.gov

U.S. Fish and Wildlife Service
Office of Law Enforcement
14852 NE 95th Street
Redmond, WA 98052
(425) 883-8122 (O)
[Website](#)



From: [Pamela Pearce](#)
To: [Austen Wilcox](#); [Yarrow Point Mayor](#)
Subject: Tree Code Revision Suggestions
Date: Thursday, October 19, 2023 2:03:12 PM

We really appreciate the Council and Planning Commission working on redefining the Tree Code. Here are some suggestions that have come up in our discussions with neighbors:

1. No clearcutting allowed (very few lots have dense trees now, most have been cleared)
2. No Leyland Cypress trees allowed
3. Size of significant trees should be reduced
4. Conifers should be replaced with like kind and encouraged as replacement trees to maintain the canopy. For instance, Hunts Point maintains a 50% canopy for their town, and also requires replacement trees to be the same species.
5. Legendary or Heritage tree status should be identified and preserved, similar to Medina's code
6. Tree removal process should be similar to requesting a variance, with charges paid to the Town for tree removal process and permitting
7. Replacement tree size required should be larger and taller
8. Trees must be watered during construction to keep them alive, as well as protected
9. Town must monitor so that trees are not cut down that are indicated as being preserved on plans
10. New owners should be issued the Tree Code and Eagle Protections and introduced to the Town as a Tree Friendly Town "Preserving and Enhancing Yarrow Point's Environment and Community". Realtors listing properties could/should be informed of our Town's Mission Statement, Tree Code, and Eagle Protections so that they can inform potential purchasers. We could have a "Welcome to the Town" packet that includes these documents.
11. Town needs to develop incentives for property owners to keep their trees
12. Town needs to make it clear that there will be a penalty for cutting significant trees without permitting process
13. Review tree codes for local jurisdictions to see if their requirements may apply and could be introduced in Yarrow Point. The Hunts Point code would offer a good guideline. Their code defines a significant tree as any evergreen or deciduous tree with a trunk diameter greater than 10" measured at 4'-6" above the ground, compared to our definition of a significant tree measuring 18" at 4'-6" above the ground.

Thank you for acting on this issue to preserve our Yarrow Point Environment and Community.