



Town Planning Commission Special Meeting

Wednesday, April 24, 2024 - 6:00 PM

Town Hall/Virtual

4030 95th Ave NE, Yarrow Point, WA. 98004

Commission Chairperson: Carl Hellings

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

Town Planner: Aleksandr Romanenko - SBN Planning

Town Attorney: Emily Romanenko – OMW

Clerk - Treasurer: Bonnie Ritter

Deputy Clerk: Austen Wilcox

Meeting Participation

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

Join on computer, mobile app, or phone

1-253-215-8782

Meeting ID: 842 3646 3126#

<https://us02web.zoom.us/j/84236463126>

1. **CALL TO ORDER:** Commission Chairperson, Carl Hellings

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:** Commissioners, Chuck Hirsch, David Feller, Jeffrey Shiu, Lee Sims

4. **REGULAR BUSINESS**

4.1 – Draft Private Property Tree Code

5. **ADJOURNMENT**

Private Property Tree Code	Proposed Action: Discussion and Vote
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Presented by:	Town Planner
Exhibits:	<ul style="list-style-type: none">• Draft 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. The Town council and planning commission held a joint meeting to discuss the tree code.

Summary:

At the October special joint meeting of the council and planning commission it was decided that the private property tree code should be reviewed and updated to better balance tree protections and property rights, and to address technical and administrative issues in the code.

In November, the Planning Commission discussed approaches for updating the code. Staff met and discussed the administrative and technical update elements. A schedule and draft administrative work plan outline was created . A tree protections matrix was drafted to help provide structure in determining which variables to adjust as part of the tree code update process.

At the December Planning Commission meeting a list of proposed changes to tree protections was discussed. Staff along with the Commission chair were directed to bring the proposed changes to council to get direction on whether the proposal is addressing the stated goal of better protecting trees in the town. The “Tree Protections Proposal Matrix” is attached for review and council feedback.

At the January Council meeting the “Tree Protections Proposal Matrix” was discussed and a set of recommendations was made by Council. The matrix has been updated to reflect those recommendations. At the January Planning Commission meeting staff was directed to write an updated draft private property tree code.

At the February meeting staff presented a draft code. Staff was directed to update the code to include more details for alternative designs, along with detailed edits to various code sections.

In March the Council held an Open House where residents gave a range of comments on the tree code. The Council after hearing this feedback gave direction to the planning commission and staff to consider additional elements and give feedback and recommendations to council on those topics.

During the March Planning Commission meeting the direction from council and feedback from residents was discussed.

At the regular April Planning Commission meeting, the draft code was discussed and reviewed line by line. The commission directed staff to integrate edits and prepare an updated draft code ahead of the April 24th special meeting

Action Items

- Staff Presentation (15 min)
- Discussion (40 min)
- Vote (5 min)

Options:

- Take no action
- Make recommendation to council

Recommended Motion:

- I move to recommend the draft private property tree code to the town council.

**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.
- ~~20.22.035 Alternative Designs~~
- 20.22.040 Exemptions.
- 20.22.050 Tree removal permit – Application process.
- ~~20.22.055 Tree removal permit – Review~~
- 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.

[Legal recommendation: Create a more robust Purpose and Intent to make the legal standing of this code more robust - Discussion with council]

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 and heritage 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 and heritage 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" 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 or heritage tree that is considered hazardous when it has been assessed by a qualified professional and using the TRAQ standard, found to be likely to fail and cause an unacceptable degree of injury, damage, or disruption.

E. "Heritage Tree" means any tree with a DBH of 36" or greater.

F. "Mitigation Tree" means a tree planted to comply with this chapter's requirements or an existing tree on the property, which was selected to be preserved.

G. "Mitigation Tree Species" means Mitigation trees shall comply with the following: any evergreen tree species that ~~have has~~ the potential to grow to the size of a significant or heritage tree depending on if the mitigation is for a significant or heritage 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.

H. "Pruning" means the act of trimming or lopping off what is superfluous; specifically, the act of cutting off branches or parts of trees with ~~the intent of 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.

L. "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 ~~have a TRAQ~~ possess the ability to perform tree risk assessments, as well as experience working directly with the protection of trees during construction.

J. "Root protection zone" or "RPZ" means the ground area around a tree with one foot of radius in all directions for each inch of DBH.

K. "Significant tree" means any tree that is at least ~~12+8~~ inches in diameter at DBH and less than a heritage tree, ~~as measured at four and one-half feet from the ground or any tree planted as mitigation.~~

L. "Tree Risk Assessment Qualification (TRAQ)" means a qualification credential established and issued by the International Society of Arboriculture and its Chapters for the purpose of standardizing tree risk assessments.

20.22.030 Tree removal and minimum significant tree density.

A. ~~Permit Required~~ Removal. A tree removal permit shall be required for the removal of any significant or heritage 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.

B. Density. The minimum significant or heritage tree density requirement is one significant and/or heritage tree per 5,000 square feet of lot area. An applicant shall demonstrate compliance with the minimum tree density requirement when :

1. a significant and/or heritage tree is proposed to be removed; or

2. a new building permit with a valuation of \$50,000 or more that proposes to construct a new structure, or change the existing building envelope and/or increase the impervious surface is proposed.

C. Setback Area. A heritage tree in a setback may not be removed unless:

1. The tree is a hazardous tree or:

2. Alternative designs for the following have been considered per YPMC 20.22.035 (Alternative Designs):

- a. Driveways
- b. Paved areas
- c. Swimming pools
- d. Low decks
- e. Piers & pier houses
- f. Underground structures.

D. Buildable Area. In the area of the property where structures may be located, a heritage tree may not be removed unless:

1. The tree is a hazardous tree or;
2. Alternative designs for the structure have been considered per YPMC 20.22.035 (Alternative Designs).

E. Density Implementation. The required tree density requirement may be accomplished through the preservation and maintenance of existing significant and heritage trees stock, or through the planting of mitigation trees, or through the designation of existing non-significant or non-heritage trees as mitigation trees, or a combination thereof.

F. Calculation. When calculating the required tree density number of trees per property, fractional tree portions shall be rounded up or down to the nearest whole number.

G. Shared Trees. Significant or heritage tree trunks that straddle a private property line shall be assigned a tree density value of 0.49 for each property.

20.22.035 Alternative Designs.

A. Heritage trees may only be removed in the setback if the applicant can establish:

1. That the things listed in YPMC 20.22.030(C)2 can not be located without removing the heritage tree(s);
or
2. That a proposed structure in the buildable area cannot be located without causing the tree(s) to become a hazardous tree as established in a report by a qualified professional.

B. Heritage trees may only be removed in the area of the property where structures may be located if the applicant can establish that the structure footprint can not be located without removing the tree(s).

20.22.040 Exemptions Emergency Tree Removal.

A. Emergency Tree Removal:

A. Any hazardous tree that poses an imminent threat to life or property may be removed prior to the issuance of a tree removal permit.

B. The property owner shall submit a tree removal permit consistent with YPMC 20.22.030 and YPMC 20.22.050 town shall be notified within seven days of the emergency tree removal and with include evidence of the threat or status justifying the removal of the significant or heritage tree.

C. The notification of emergency removal shall contain a site plan showing remaining trees on the lot with a calculation demonstrating compliance with the minimum 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.

D. Trees planted for mitigation of a hazardous tree are exempt from the bonding requirements under YPMC 20.22.080(H)

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):

20.22.050 Tree removal permit – Application process.

A. Any property owner intending to remove a significant or heritage 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~~ greater or equal to 6" DBH, including those proposed for removal, on the subject property.
3. For applications associated with ~~construction a building~~ or site development permit, the site plan ~~must shall~~ also label and identify all trees within 20 feet of the proposed ~~construction and/or site development~~ activity. Additionally, the applicant shall submit a report prepared by a qualified professional that evaluates the significant and/or heritage trees on site, as well as all trees in the adjacent areas impacted by the proposed construction.
4. A mitigation plan, if required per YPMC 20.22.080, indicating the location and species for all trees to be planted and/or identifying existing trees to be designated as mitigation trees.
5. The current permit fee, as established by the town council.
6. Documents which may be required at the discretion of Town staff, including but not limited to:
 - a. An erosion control plan.
 - b. A stamped site survey if the location of significant or heritage trees relative to a property line can not be determined.
 - c. A tree protection plan per YPMC 20.22.090 (Construction site tree protection) for applications associated with construction or site development.

B. Identification on Site. Concurrent with submittal of the tree removal permit application, the owner shall identify every significant and heritage 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 (SMP) Section 5.6 – Vegetation Management. The requirements of the SMP shall be met in addition to compliance with this chapter. Work in the shoreline jurisdiction shall require a shoreline permit.

20.22.055 Tree removal permit – Review

- A. Review Procedures.
 1. Completeness. An application for a tree removal permit is not complete until the applicant has submitted all the applicable items required by YPMC 20.22.050 and YPMC 20.22.080(H), when applicable.
 3. Decision. The Town shall issue a decision on the tree removal permit application. The Town may grant the tree removal permit, grant the permit with conditions pursuant to this chapter and the YPMC, or deny the permit.
 - a. Any condition reasonably required to enable the tree removal to meet the standards of this chapter or the applicable provisions of the YPMC may be imposed.
 - b. If no reasonable condition(s) can be imposed that ensure the tree removal meets such requirements, the application shall be denied.
 - c. The Town's decision on the application is final.
- B. Guidelines for measuring DBH. Guidelines for measuring DBH shall be as established in the "Yarrow Point DBH Measurement Guidelines" document kept on file with the Town Clerk.

E. 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.

20.22.060 Tree removal permit – Notification.

A. Upon issuance of a tree removal permit, a notice of the proposed removal of one or more significant or heritage trees shall be posted within five business days of receipt of a complete application. The notice shall be posted by the town on the subject property 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 notice shall include the 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.

B. Upon issuance of a permit for an emergency tree removal a notice shall be provided to the abutting property owners and shall be posted on the town's website. The notice shall include the site plan.

20.22.070 Tree removal permit – Expiration.

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

20.22.080 Tree Mitigation, Maintenance, and Warranty.

A. Except as otherwise specified, mitigation shall be required:

1. When the tree density requirement is not met and/or
2. When a heritage tree is removed. 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,

B. When mitigation is required, the applicant shall provide a tree mitigation plan identifying all mitigation trees, their sizes, and species, 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.

C. Trees planted for mitigation shall have a full and well developed crown, and trees shall be a minimum of 10 feet tall for evergreens or have a minimum three-inch caliper for deciduous trees, and shall have a full and well developed crown.

D. Town Staff shall determine if a proposed mitigation tree location is suitable based on its proximity to other trees, property lines, the shoreline, critical areas, utilities, right of way, or structures and their appurtenances.

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

F. Trees planted as mitigation trees shall be maintained with adequate water and care to survive a minimum ~~ten~~three-year warranty period.

G. An existing tree on the property which is not a significant or heritage tree may be designated as a mitigation tree if it is deemed to be healthy and well positioned for growth into a significant or heritage tree as proposed by the applicant and then reviewed by town staff.

H. ~~Prior to planting a mitigation trees,~~ The applicant shall post a warranty bond in a form and amount acceptable to the town before the issuance of the tree permit. The bond amount shall be \$2,500.00 per mitigation tree. The total bond amount shall not exceed \$10,000.00 per permit on lots 20,000 SF in area or less, or \$25,000.00 per permit on lots over 20,000 SF in area, to ensure all trees planted or retained as mitigation survive the warranty period.

I. Mitigation trees that fail to survive the ten year warranty period shall be replaced by the property owner with trees in accordance with this chapter's standards. If the property owner fails to replace the tree in accordance with this chapter the town may call the bond and replace the tree in accordance with this chapter, with new mitigation trees within 90 days in accordance with the YPMC. Mitigation trees shall be maintained in a healthy condition for their lifetime.

J. Each heritage tree shall be replaced with a mitigation tree except when the only available planting locations are:

1. Underneath existing tree canopy;
2. Within 5 feet of retaining walls;
3. Within 10 feet of an existing or proposed structure;
4. Within 5 feet of a bulkhead;
5. Within 5 feet of the Ordinary High Water Mark;
6. Within 5 feet of underground utilities;
7. Within a ROW sight triangle as established by the Town Engineer;
8. Smaller than 5' in diameter planting area; or
9. When YPMC 20.22.080 G can not be implemented.

K. Preferred mitigation tree species are listed in the Town's "Preferred Mitigation Tree List".

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.~~

20.22.090 Construction site tree protection.

A. All significant and/or heritage 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. Construction site tree protections shall be installed on the subject property where the work is being conducted and along access routes which are utilized for the project as agreed upon by relevant parties. Such protections shall be installed by the property owner or their designee in accordance with this chapter.

B. ~~The property owner shall submit a report prepared by a qualified professional that evaluates the significant and/or heritage 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. The town arborist shall have discretion to allow for a smaller RPZ to be utilized.~~

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 and/or heritage tree(s) on site or any trees on adjacent properties.

D. The following tree protection requirements are required for all construction sites and shall be identified on site permit documents:

1. Tree protection fencing or other barriers shall be installed along all clearing limits just outside of a tree's root protection zone (RPZ). Tree protection fencing shall be the installation of a rigid cyclone fence, six feet in height located just outside the root protection zone. In the case of trees along a driveway, public right-of-way, or high-traffic areas, plywood fencing no less than six feet in height may be used in lieu of a rigid cyclone fence. A moveable panel or gate should be part of the fencing or barrier to allow access to the RPZ.

2. All tree protection fencing shall be installed and its location approved by town staff prior to the commencement of work on site.

3. A two- to four-inch-deep layer of arborist woodchip mulch shall be placed over the soil in the RPZ. Hog fuel is acceptable.

4. No debris or construction materials may be stored, nor grade changes occur, within the RPZ. No parking, dumping, or burning is allowed.

5. Work required for removal of unwanted vegetation within the RPZ areas will be hand work only; no heavy equipment.

6. When removing trees outside of the RPZ determined to be unacceptable for retention, use methods such as directional felling to avoid damage to trees and other valuable vegetation that is being retained. Small trees and other native vegetation in these areas should be carefully preserved.

7. Where construction or utility trenches are required in the rights-of-way, side property setbacks, and RPZs; it is required to tunnel under or around roots by drilling, auger boring, pipe jacking or hand digging.

8. Tree stumps that are within a RPZ or immediately adjacent to the RPZ of a preserved tree or other vegetation shall be removed by grinding.

9. Where it has been determined that roots of a significant or heritage tree may be encountered during excavation or grading, a qualified professional shall be on site to supervise any root pruning and to assess the potential impact of such pruning. Any root greater than one-and-one-half-inch diameter that is encountered shall be carefully cut with a sharp tool. Roots cut shall be immediately covered with soil or mulch and kept moist.

10. Where access for machinery or any vehicle is required within the RPZ of any significant or heritage tree, the soil should be protected from compaction. Acceptable methods may include 18 inches of wood chips or hog fuel, plywood, or steel sheets. Town staff should be contacted a minimum of 48 hours before entering into the RPZ.

11. Tree protection fencing shall not be moved without authorization from town staff. All fencing is to be left in place until the completion of the project.

12. Landscaping specified within the RPZ areas shall be designed to limit disturbance of surface soils and preserved vegetation. No root pruning is permitted. New plants added in these areas should be of the smallest size possible to minimize disturbance.

13. Any trees adjacent to high-traffic areas or building envelopes shall be pruned by qualified professional for pruning to remove dead wood, provide clearance, and cabling or bracing.

14. Supplemental irrigation for all protected trees is required during the summer months or prolonged periods of dry weather as determined by a qualified professional.

~~E. 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 10 days of such action, file a notice of appeal to the ~~town council~~ hearing examiner, in accordance with the procedures established by chapter 1.08 YPMC setting forth the reasons for such appeal and the relief requested. The ~~town council~~ hearing examiner shall hear and determine the matter and may affirm, modify, or disaffirm the administrative decision within 60 days of a 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 or heritage tree over 18-12 inches DBH that is removed without a permit; provided, that the maximum fine for the removal of each significant or heritage 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 or heritage 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~~ fund and shall be used by the town for acquiring, installing, maintaining, ~~and~~ preserving wooded areas, and for the planting and maintenance of trees within the town's public places and rights-of-way.

DRAFT