

Title 17

ZONING

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Chapter 17.04

GENERAL PROVISIONS

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17.04.010 Title.

This title shall be known as the zoning code for the town of Yarrow Point. (Ord. 549 § 1, 2005)

17.04.020 Interpretation.

In their interpretation and application, the provisions of this title shall be held to be the minimum requirements which are adopted for the promotion of the public health, safety, and welfare. This code is to be interpreted as a whole, in view of the purpose set out in this chapter. If the general purpose of this development code conflicts with the specific purpose of any chapter of this development code, the specific purpose shall control. (Ord. 549 § 1, 2005)

17.04.030 Purpose.

The purpose of this title is to regulate the use of land; to limit land use density to be compatible with the street, local park, and infrastructure capabilities; to regulate the size and placement of buildings, structures, and vegetation so as to assure some preservation of views, light, air, and open space; and preserve the character of the neighborhood. (Ord. 549 § 1, 2005)

17.04.040 Official map for zoning.

The location, size, shape, area and boundaries of the zones to which the provisions of the text of this title are applicable shall be as indicated on the map which is entitled “Offi-

cial Zoning Map of the Town of Yarrow Point,” and such map, as adopted by the town council, shall be a part of this title, copy on file with the town clerk/treasurer. (Ord. 549 § 1, 2005)

17.04.050 Administration.

The position of building official is hereby created to administer the provisions of this title. The building official shall be appointed by the mayor and serve at the mayor’s discretion. (Ord. 549 § 1, 2005)

17.04.060 Validity.

If any section, paragraph, subsection, clause or phrase of this code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this code. The town council hereby declares that they would have passed this code and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases were unconstitutional or invalid. (Ord. 549 § 1, 2005)

Chapter 17.08

DEFINITIONS

Sections:

17.08.010 Definitions.

17.08.010 Definitions.

Words used in the singular include the plural and the plural the singular.

“Accessory dwelling unit (ADU)” means a habitable dwelling unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation.

“Accessory use” means a use customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same lot.

“Adult family home” means the regular family abode of a person or persons who are providing personal care, special care, and room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

“Alteration” means any human-induced action which impacts the existing condition of the area, including, but not limited to:

1. Grading, filling, dredging, draining, channelizing, cutting, topping;
2. Clearing, relocating or removing vegetation;
3. Paving, construction, modifying for surface water management purposes;
4. Human activity that impacts the existing topography, vegetation, hydrology, or wildlife habitat.

“Alteration” does not include walking, passive recreation, fishing, or similar activities.

“Appeal, closed record” means an administrative appeal to the town council following an open record hearing on a project application. Evidence for the appeal is limited to the record of the open record hearing.

“Appeal, open record” means an administrative appeal to the planning commission or town council when there has not been an open record hearing on a project application. New evidence or information is allowed to be submitted in review of the decision.

“Boat house” means a structure erected over water, intended to provide shelter for a boat.

“Building” means any structure built for the support, shelter or enclosure of persons, animals, or chattels.

“Building site” means a lot meeting the requirements of YPMC 17.16.050, for the purpose of erecting a building or structure.

“Bulkhead” means a placement of rock, stone, concrete, timber, or similar materials at the shoreline for the purpose of protecting said shoreline from the wave action of the water.

“Catastrophic loss” means a loss which occurs as a result of accidental fire, storm, earthquake or any other natural disaster, or an act of vandalism, terrorism or war.

“Clearing” means the act of destroying or removing trees or groundcover from any lot, public lands, or public right-of-way.

“Development” means:

1. A piece of land that contains buildings, structures, and other modifications to the natural environment; or
2. The alteration of the natural environment through:
 - a. The construction or exterior alteration of any building or structure, whether above or below ground or water, and any grading, filling, dredging, draining, channelizing, cutting, topping, or excavation associated with such construction or modification.
 - b. The placing of permanent or temporary obstructions that interfere with the normal public use of the waters and lands subject to this code.
 - c. The division of land into two or more parcels, and the adjustment of property lines between parcels.

“Dock, pier or wharf” means a structure which extends from the land into the water for recreational purposes.

“Family” means one or more persons (but not more than six unrelated persons) living together in a single housekeeping unit. For purposes of this definition and notwithstanding any other provision of this code, children with familial status within the meaning of Title 42 United States Code, Section 3602(k), and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h), will not be counted as unrelated persons.

“Fence” means a barrier composed of posts or piers connected by boards, rails, panels or wire, or a masonry wall.

“Gardening shed” means a structure erected for the storage of land gardening equipment, which equipment is used only for the purpose of maintaining the lot upon which the equipment is located.

“Grade, existing” means the surface level at any point on the lot prior to alteration of the ground surface.

“Grade, finished” means the surface of the ground which has been graded in site development to adapt the lot to the dwelling, driveways, streets and adjoining lots, but not to include raised areas such as berms which artificially increase the elevation of local areas.

“Grade, original” means the grade of undisturbed earth which existed at the time of incorporation of the town of Yarrow Point, June 30, 1959.

“Hedges” 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.

“Hot tub” means a hot tub as defined in the Uniform Swimming Pool, Spa and Hot Tub Code, as adopted by the town of Yarrow Point.

“Impervious surface” includes without limitation the following:

1. Buildings: the footprint of the building and structures including all eaves;

2. Vehicular use: driveways, streets, parking areas and other areas, whether constructed of gravel, pavers, pavement, concrete or other material, that can reasonably allow vehicular travel;

3. Sidewalks: paved pedestrian walkways, sidewalks and bike paths;

4. Recreation facilities: patios, porches, tennis courts, sport courts, pools, hot tubs, and other similar recreational facilities;

5. Landscaping: walls and rockeries are considered impervious surfaces; and

6. Miscellaneous: any other structure or hard surface which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, or causes water to run off the surface in greater quantities or at an increased rate of flow from present flow rate under natural conditions prior to development.

“Inundated land” means any portion of a lot which is naturally or artificially submerged by the water of Lake Washington.

“Lift station (boat hoist)” means a structure or device attached or adjacent to a dock, wharf or pier used to raise a watercraft above the waterline for secure moorage purposes.

“Lot” means a designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

“Lot area” means the total horizontal area included within the lot lines, which shall not include inundated land except where portions of the lot are inundated land created by excavation for purpose of creating a cove. The lot area does not include the area provided for private lanes or panhandle driveways, or easements for private lanes or panhandle driveways.

“Lot line revision” means an adjustment of boundary lines between existing lots that does not create any additional lots and which does

not reduce the area of any existing lot to the point that it fails to meet minimum development code requirements for area and dimensions.

“Low decks” means decks without roof covering having a height above finished grade not more than one foot higher than one-half the distance to the nearest property line but not exceeding three feet. The height does not include railings.

“Nonconforming lot” means a lot that has less than the minimum area required by the current code for the zone in which the lot is located.

“Nonconforming structure” means a structure that does not comply with the existing code.

“Nonconforming use” means a use of land not permitted in the existing code.

“Ordinary repairs and maintenance” means an activity in response to the effects of aging, ordinary use, or wear and tear that restores the character, scope, size, footprint or design of a serviceable area, structure, or land use to its previously existing, authorized or undamaged condition; however, this is not intended to allow total replacement, substitution or reconstruction of a nonconforming structure.

Other Definitions. When any word used in this title is not specifically defined herein, its definition shall be that in Webster’s New International Dictionary of the English Language, and where more than one definition is given, the most common nonprofessional usage shall govern.

“Panhandle driveway” means a means of access to and from a public street or private lane provided for a lot or lots and which is not required to be classified as a private lane per this section. Such a driveway may be an easement, a jointly owned, or privately owned area of land.

“Private lane” means:

1. The primary means of access to and from a public street provided for more than

two building sites with right of use provided by an easement or land ownership; or

2. A means of access which is required to be platted as a private lane per the requirements of YPMC Title 16, Subdivisions.

“Retaining wall/rockery” means a wall of masonry, wood, rock, metal, or other similar materials or combination of similar materials that bears against earth or other fill surface for purposes of resisting lateral or other forces in contact with the wall, and/or the prevention of erosion.

“Setbacks” means a term establishing a minimum distance from the line of ordinary high water, or from the near edge of a public right-of-way, or from the near edge of a private lane or panhandle driveway, or from the line separating adjacent private property to the vertical projections to the ground of the outermost parts of any structure.

Shoreline. The official shoreline, as shown on the town zoning map, shall be the shoreline of Lake Washington at the line of ordinary high water which shall be 22 feet above mean lower low water in Puget Sound.

“Single-family dwelling” means a building designed and/or used to house not more than one family, plus any live-in household employees of such family.

“Spa” means a spa as defined in the Uniform Swimming Pool, Spa and Hot Tub Code, as adopted by the town of Yarrow Point.

“Storm sewers” means facilities for the control and disposal of rain water and ground water runoff.

“Structure” means anything constructed or erected which requires location on the ground, or attachment to something having a location on the ground.

“Structure area” means the total horizontal area covered by buildings and structures but not to include swimming pools, the portion of roof overhangs less than two and one-half feet, recreational facilities without roofs, piers, boat houses, and low decks.

“Structure height” means the height of any portion of a structure measured vertically from any point to the original grade, but not to include chimneys, or conventional broadcast band TV or radio receiving antennas.

“Swimming pool” means a swimming pool as defined in the Uniform Swimming Pool, Spa and Hot Tub Code, as adopted by the town of Yarrow Point.

“Underground structure” means a structure principally underground, which does not exceed the height limitation for low decks.

“Variance” means a modification of standard development code provisions based on special circumstances and complying with the town’s variance criteria.

Vehicles, Large. Vehicles such as trailers, recreational vehicles, motor homes, trucks, SUVs and portable equipment are to be classified as large if their height exceeds seven feet, and to include all vehicles less than seven feet in height having a load capacity exceeding 20,000 pounds gross weight.

“Waterfront structure” means docks, piers, wharves, floats, mooring piles, anchor buoys, bulkheads, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of ordinary high water.

“Waterward” means any point located in Lake Washington, lakeward from the ordinary high water mark.

“Wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include artificial wetlands, such as irrigation and drainage ditches, grass-lined swales, landscape amenities, and detention facilities unless the artificial wetlands were created to mitigate the alteration of a naturally occurring wetland. (Ord. 549 § 1, 2005)

Chapter 17.12

USE AND CLASSIFICATIONS

Sections:

17.12.010 Land use classifications.

17.12.020 Permitted uses.

17.12.025 Primary uses.

17.12.030 Accessory uses.

17.12.040 Commercial use of property.

17.12.050 Special property uses.

17.12.010 Land use classifications.

The land use classifications within the zones as shown on the zoning map of the town of Yarrow Point shall be:

Zone R-12 Residential

Zone R-15 Residential

(Ord. 549 § 1, 2005)

17.12.020 Permitted uses.

It is hereby established that the uses permitted in all zones are as set forth in this chapter. Any use not expressly permitted is prohibited. (Ord. 549 § 1, 2005)

17.12.025 Primary uses.

Primary uses include single-family dwellings. One single-family residence is permitted on each building site. (Ord. 549 § 1, 2005)

17.12.030 Accessory uses.

The only accessory uses permitted in all zones are listed in the following subsections. Specific limitations on accessory uses and structures are identified where such limitations have been established.

A. Paving. Impervious surfaces shall include provisions to direct rain water into a street storm drain or into a detention system or into a storm drain infiltration system in accordance with adopted stormwater standards.

B. Fences, Walls, Hedges.

1. No fence, wall, hedge or vegetation shall be permitted which will impair the visi-

bility for vehicular traffic as determined by the town engineer or his designee.

2. No fence, freestanding wall, retaining wall, rockery, or hedge in the setback area shall exceed six feet in height above the finished grade, except as noted below or in subsection (N)(3) of this section.

3. Where a retaining wall protects a cut, such a wall may be topped by a fence or wall of the same height that would otherwise be permitted at the location if no retaining wall existed.

4. Where a retaining wall protects a fill, the height of the fill shall be considered as subtracting from the normally permitted height of a fence constructed in the setback area. Whenever a fence is required as a protective guard rail, the combined height of the wall and fence shall be permitted to exceed six feet in height; provided, that the fence shall not exceed 36 inches in height and any portion of such fence more than 72 inches above the foot of the wall shall be an open-work fence.

C. Garages used to store vehicles, maintenance materials and equipment associated with the primary use.

D. Underground structures.

E. Accessory Dwelling Units. One accessory dwelling unit is permitted as subordinate to an existing single-family dwelling; provided, that the following requirements are met:

1. Owner Occupancy. Either the principal dwelling unit or the accessory dwelling unit must be occupied by an owner of the property or an immediate family member of the property owner. "Owner occupancy" is defined as a property owner, as reflected in title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year.

2. Size. The gross floor area of an accessory dwelling unit shall not exceed six percent of the lot area and shall contain not less than

220 square feet and not more than 850 gross square feet, excluding any related garage area.

3. Location. The accessory dwelling unit may be a part of the principal residence or in a separate building.

4. Parking. Two 10-foot by 22-foot off-street parking places are required in addition to off-street parking required for the primary residence.

5. The accessory dwelling unit shall have an external entry, thus not requiring entry into the primary residence. Where the primary residence has frontage on a public street, the accessory dwelling unit entry shall not face the public street.

6. Address. The accessory dwelling unit shall have a separate house number as established by the town building official.

7. Code Compliance. The accessory dwelling unit shall comply with the State Building Code.

8. No more than two persons may reside in an accessory dwelling unit.

F. Garden sheds.

G. Hobby shops shall be permitted as a use in any accessory or primary residential building and, to the extent that any activity in connection therewith is conducted out of doors, shall be so screened as to be substantially obscured from public view.

H. Inundated Land. The only uses permitted for inundated land are those uses related to recreation, such as swimming, boating, docks, piers and boathouses. Inundated land may not be filled with earth or any other material except as permitted by applicable federal and state regulations. The shoreline shall not be altered to reduce the water area. If altered, the shoreline shall be continuous at each property sideline boundary. The depth of the water may be increased but depth may not be reduced.

I. Bulkheads. A bulkhead consisting of rock, stone, concrete, timber or similar materials may be constructed, provided it does not materially reduce the water area. They may be

placed at the shoreline, following its contour as defined in Chapter 17.08 YPMC, or the shoreline may be cut back to allow its placement. Bulkheads shall be continuous at each property sideline boundary where bulkheads exist.

J. Piers. One pier is permitted for each building site or each separately provided lot which may not be a building site when a minimum setback of 10 feet from the extended lot line is provided. Piers may be located so as to straddle a property line when a mutual reciprocal easement between the two affected properties which provides for the common use of such pier is filed with the county auditor. A property line pier is allowed only in lieu of any other pier. Piers may extend outward from the shoreline of ordinary high water for a distance not to exceed 150 feet.

K. Boat Houses. One covered structure located over the water and upon or as part of any pier is permitted for each lakefront building site. The sides of the structure shall not be enclosed except that one storage locker may be constructed on the shoreward end which shall not exceed six feet in width and three feet in depth.

L. Piling for Piers and Moorage. Piling for moorage shall not extend higher than six feet above the line of ordinary high water. Piling for piers and boathouses shall not extend above the deck of the pier. A setback of 10 feet shall be provided from extended sidelines, except that piling may be located without respect to setbacks when mutual reciprocal easements are filed with the county auditor by the adjoining affected property owners.

M. Boats, Float Planes, Seaplanes and Helicopters.

1. Boats. Boats may be stored; provided, that such storage position, if not at a dock or boat house, is located so the vessel meets all setback requirements for buildings except as provided in YPMC 17.16.040(A)(2). Boats may not be lived in.

2. Seaplanes. Seaplanes may be moored or stored within the town; provided, that seaplanes must maintain a 10-foot setback from the side property lines of adjacent properties and no part of a seaplane may extend into the 10-foot setback. Seaplanes may not be anchored to shorelands adjacent to waterfront property or attached to such property without the permission of the owner of such property.

3. Helicopters. The storage, use or operation of helicopters is prohibited, except in cases of emergency.

N. Recreational Facilities.

1. Playgrounds, tennis courts, badminton courts, basketball courts, and similar facilities.

2. Swimming Pools, Hot Tubs, and Spas. Swimming pools, hot tubs and spas, including temporary and permanent covers, exceeding height of low decks are required to meet all restrictions applicable to structures. Pools must be enclosed by fencing at least five feet high, with no openings larger than four inches wide. Gates must be self-closing with self-latching devices that are at least four and one-half feet above the ground and located on the pool side of the fence. The fencing and gate shall be designed to prohibit climbing or penetration by small children. Other permanent barriers equal to or more effective than fencing in controlling access may be deemed acceptable. Application for approval of alternate barriers shall be made through the planning commission for approval by the town council.

3. Fencing surrounding tennis courts, paddle tennis courts, and similar recreational facilities shall be constructed of non-sight-obscuring material and shall not exceed 12 feet in height. Within the setback area a fence shall not exceed six feet in height above finished grade.

4. Lighting. Outdoor lighting of recreational facilities and for general yard illumination must point downwards. The beam of light must be no higher than three feet above grade

at the property line of any adjoining property. Light poles or standards must comply with the height restrictions for structures set forth in this title, but are exempt from setback restrictions.

O. Large Vehicles. Large vehicles may be stored; provided, that the vehicle meets all setback requirements for buildings. Such vehicles may not be lived in.

P. Signs shall be permitted as provided in Chapter 15.08 YPMC. (Ord. 593 § 2, 2009; Ord. 549 § 1, 2005; Ord. 439 §§ 1 – 5, 1995)

17.12.040 Commercial use of property.

No commercial activity shall be carried on within the corporate limits of the town of Yarrow Point, unless the following conditions are met:

A. The home occupation will be carried on within the confines of the resident's home.

B. Only one employee who is not a member of the resident's immediate family may be employed in the home occupation.

C. There shall be no visible exterior display, no exterior signs, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the premises.

D. Structural alterations to the interior or exterior of the building which change its residential character are prohibited.

E. There shall be no noise, vibration, smoke, dust, odors, heat or glare produced as a result of the home occupation which would exceed that normally produced at a single-family residence.

F. 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 home occupation cause on-street parking.

G. The proposed home occupation shall in no way disturb the tranquillity of the neighborhood.

H. There shall be no more than two outside visitors/customers at the single-family residence as a result of the home occupation at any one time.

I. There shall be no commercial kennels for dogs, cats and other animals.

J. A homeowner may accommodate roomers or boarders so long as it is not done in a commercial scale.

K. Adult family homes are permitted subject to applicable state law and subject to subsections A through H of this section. (Ord. 549 § 1, 2005)

17.12.050 Special property uses.

The following special property uses are permitted subject to the provisions noted for each such use:

A. Public buildings.

B. Public parks and playgrounds.

C. Churches. Off-street parking shall be provided for one automobile for each two units of individual seating therein.

D. Public utility facilities. (Ord. 549 § 1, 2005)

Chapter 17.16

DEVELOPMENT STANDARDS

Sections:

- 17.16.010 Lot area.
- 17.16.020 Structure area.
- 17.16.030 Structure height.
- 17.16.040 Setback requirements.
- 17.16.045 Impervious surface requirements.
- 17.16.050 Building site requirements.
- 17.16.060 Off-street parking.
- 17.16.070 Excavations and fills.
- 17.16.080 Storm sewers.
- 17.16.090 Utility services.
- 17.16.100 Private lanes.

17.16.010 Lot area.

The area of lots formed by platting (subdivision) shall not be less than:

- A. Zone R-12 – 12,000 square feet.
- B. Zone R-15 – 15,000 square feet. (Ord. 549 § 1, 2005)

17.16.020 Structure area.

The total structure area shall not exceed 30 percent of the lot area. (Ord. 549 § 1, 2005)

17.16.030 Structure height.

A. Structure height shall not exceed 25 feet above original grade or 31 feet above finished grade, whichever is less.

B. Boat houses shall not exceed a height of 16 feet above ordinary high water. (Ord. 593 § 1, 2009; Ord. 549 § 1, 2005)

17.16.040 Setback requirements.

A. Applicability of Setback Restrictions.

1. Buildings, structures, garages, carports, large stored vehicles, and similar equipment may only be placed in the area enclosed by the setback lines.

2. The following things may be located without regard to setback restrictions:

- a. Fences and hedges;
- b. Plants and vegetation;

- c. Low decks;
- d. Boats less than six feet in height, including trailer height, regardless of length;
- e. Paved areas;
- f. Rockeries and retaining walls;
- g. Underground structures;
- h. Piers, pier houses and piling placed with reciprocal easement agreements;
- i. Actively used licensed vehicles;
- j. Swimming pools not exceeding the height of low decks.

k. i. A trellis is permitted as part of the primary entrance to property within the setback area abutting a public right-of-way or a private lane provided same does not impede traffic visibility or pedestrian movement.

ii. A trellis shall conform to the following dimensions:

(A) Shall not exceed eight feet in height above finished grade;

(B) Shall not exceed six feet in width;

(C) Shall not exceed three feet in depth;

(D) Shall not exceed a total of 18 square feet.

iii. The trellis may be placed over a gate, walkway, or entrance, but shall not be placed over a driveway.

iv. There shall be a maximum of one trellis structure within a setback area per building lot.

v. The top and sides of the trellis structure must be 50 percent open.

B. The setback from the shoreline of Lake Washington is 50 feet.

C. The setback from a public right-of-way is 25 feet.

D. The setback from a private lane provided to serve the lot or provided on the lot to serve other building sites is 25 feet.

E. The setback from a property line dividing private property is 10 feet.

F. The setback from a private lane on adjacent property which does not include rights of use by the lot in question is 10 feet.

G. The setback from a panhandle driveway is 10 feet. (Ord. 582 § 1, 2008; Ord. 549 § 1, 2005)

with the town clerk/treasurer, which satisfies either or both of the following conditions:

a. Has an existing residential dwelling on it; or

17.16.045 Impervious surface requirements.

A. The total percentage of a lot that can be covered by impervious surface, including buildings, is 60 percent.

B. Exemptions. The following improvements will be exempt to the extent allowed, from calculation of the maximum impervious surface limits:

1. Decks/Platforms. Decks and platforms constructed with gaps measuring one-eighth of an inch or greater between boards which provide free drainage between the boards as determined by the code official shall be exempt from the calculation of maximum impervious surface limits so long as the surface below the deck or platform is not impervious.

2. Pavers and gravel shall be calculated as 75 percent impervious, provided the area is not used for vehicular access or storage. (Ord. 575 § 1, 2007; Ord. 570 § 1, 2007)

17.16.050 Building site requirements.

A. A building site must abut a public street or have access to a public street by means of a private lane or panhandle driveway.

B. Lots meeting any of the following criteria, and including subsection A of this section, are legal building sites:

1. A lot meeting the area requirements of YPMC 17.16.010.

2. Any lot that came into existence before August 4, 1959, and is not held as a unit with a contiguous lot.

3. Land held as a unit as identified by a tax parcel number in the King County assessor's records as of May 22, 1992, copy on file

b. Contains over 85 percent of the minimum lot area requirements of the zone in which it is located.

C. Sale or disposition of portions of land held as a unit is permitted only if:

1. Each resulting separately held portion complies with the building site requirements of subsections A and B of this section exclusive of the area exception permitted by subsection (B)(2) of this section; and

2. No new nonconformity of a structure is created in regard to setback or area coverage. (Ord. 549 § 1, 2005)

17.16.060 Off-street parking.

Off-street parking shall be provided for each primary dwelling unit to accommodate four automobiles. The space required for each vehicle shall be a minimum of 10 feet by 22 feet and the area required may include the area of a garage, carport or driveway which may be provided on the lot. The parking spaces shall not have a slope exceeding 10 percent. (Ord. 549 § 1, 2005)

17.16.070 Excavations and fills.

Slopes for permanent excavations or fills without retaining walls shall not be steeper than two horizontal to one vertical. (Ord. 549 § 1, 2005)

17.16.080 Storm sewers.

During the development, improvement, use or construction within a lot, site, parcel, plat or area, all natural contours shall be maintained to the extent that natural drainage flow from or onto adjacent public or private property shall not be disrupted, blocked, increased, redirected or otherwise made detrimental to the use or maintenance of adjacent property; provided, that this restriction shall not prevent the installation and maintenance of a covered storm sewer under or across private property along a natural drainage course for the purpose of generally improving a particular property,

in conformance with the specifications and plans meeting the approval of the town engineer. Collected water, including but not limited to such waters as may be collected from roof downspout drains, surface drains or foundation drains, shall be discharged into storm sewer facilities where such facilities are available. (Ord. 549 § 1, 2005)

17.16.090 Utility services.

All utility services including electrical, telephone and cable serving any new construction shall be placed underground. (Ord. 549 § 1, 2005)

17.16.100 Private lanes.

Grading, paving, and utility services are the only construction permitted in any area designated as a private lane or panhandle driveway. (Ord. 549 § 1, 2005)

Chapter 17.24**NONCONFORMANCES**

Sections:

- 17.24.010 Nonconformers.
- 17.24.020 Permitted when.
- 17.24.030 Enlargements.
- 17.24.040 Repairs, remodeling, additions.
- 17.24.050 Replacements.

17.24.010 Nonconformers.

The regulations in this chapter are intended to encourage owners of nonconforming properties to consider and take measures to correct nonconformity when undertaking remodeling and expansion projects. The regulations accommodate minor revisions and additions to nonconforming buildings and structures. The regulations discourage incremental changes to nonconforming buildings and structures which cumulatively circumvent the current zoning standards. Substantial changes and expansion in nonconforming buildings and structures are required to adhere to the zoning requirements for open space, protection of exterior views, air and light, and fire safety. (Ord. 549 § 1, 2005)

17.24.020 Permitted when.

Any structure lawfully established, that does not conform with subsequently adopted restrictions of the zoning in which it is situated, is permitted to continue and be maintained. (Ord. 549 § 1, 2005)

17.24.030 Enlargements.

A proposed enlargement of a nonconforming structure not covered by or in violation of the regulations listed herein may only be executed through the variance procedure of the hearing examiner. (Ord. 549 § 1, 2005)

17.24.040 Repairs, remodeling, additions.

Repairs, remodeling, structural modifications, additions, and enlargements may be done to a nonconforming structure; provided, that all of the following conditions are met:

A. The structure is a permitted use per Chapter 17.12 YPMC.

B. The work does not increase the degree of nonconformity.

C. The work does not add over 50 percent to the existing structure area or 100 percent to the existing habitable floor space.

Additions or enlargements over 50 percent of the existing structure area or 100 percent of the existing habitable floor space require that the entire structure be brought into conformity to the zoning code. (Ord. 549 § 1, 2005)

17.24.050 Replacements.

Whenever a building or structure which is nonconforming is destroyed by catastrophic event, such nonconforming structure may thereafter be replaced within 18 months by a similarly nonconforming structure only if the replacement structure does not exceed a duplicate of the original in any external dimensions and location. (Ord. 549 § 1, 2005)

Chapter 17.28

HEARING EXAMINER

Sections:

- 17.28.010 Hearing examiner created.
- 17.28.020 Appointment and term.
- 17.28.030 Qualifications.
- 17.28.040 Undue influence.
- 17.28.050 Initiation of action.
- 17.28.060 Authority.
- 17.28.070 Jurisdiction.
- 17.28.080 Decision of hearing examiner.
- 17.28.090 Request for reconsideration.
- 17.28.100 Appeal of examiner's decision.

17.28.010 Hearing examiner created.

The office of the town of Yarrow Point hearing examiner, hereinafter referred to as the examiner, is hereby created. The examiner shall interpret, review and implement land use regulations as provided by ordinance and may perform other quasi-judicial functions as are delegated by ordinance. Unless the context requires otherwise, the term "examiner" as used in this chapter shall include deputy examiners and examiners pro tem. (Ord. 549 § 1, 2005)

17.28.020 Appointment and term.

The mayor shall appoint the hearing examiner, subject to confirmation by the council, for a maximum of one year. The mayor may also appoint deputy examiners or examiners pro tem in the event of the examiner's absence or inability to act. The town may terminate the agreement for hearing examiner services at any time with 30 days' notice. (Ord. 549 § 1, 2005)

17.28.030 Qualifications.

Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings and

to discharge other delegated functions. Examiners shall hold no other elective or appointive office or position with town government. (Ord. 549 § 1, 2005)

17.28.040 Undue influence.

No person, including town officials, elected or appointed, shall attempt to influence an examiner in any matter pending before him or her, except at a public hearing called for such purpose, or to interfere with an examiner in the performance of his or her duties in any other way; provided, that this section shall not prohibit the town attorney from rendering legal service to the examiner upon request. (Ord. 549 § 1, 2005)

17.28.050 Initiation of action.

The examiner shall hold public hearings in response to any appellant who has filed a request for a variance or an appeal in accordance with town ordinances including the payment of fees as determined by town resolution. Written notice thereof shall be addressed through the United States mail to all property owners of record within a radius of 300 feet of the exterior boundaries of subject property. The written notice shall be mailed not less than 14 days prior to the hearing. (Ord. 549 § 1, 2005)

17.28.060 Authority.

The examiner shall have the authority to:

- A. Receive and examine available information;
- B. Conduct public hearings in accordance with Chapter 42.32 RCW and all other applicable laws, and to prepare a record thereof;
- C. Administer oaths and affirmations;
- D. Issue subpoenas and examine witnesses; provided, that no person shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law;
- E. Regulate the course of the hearing;

F. Make and enter written findings of fact and conclusions to support his or her decisions;

G. At the examiner's discretion, hold conferences for the settlement or simplification of the issues;

H. Conduct discovery;

I. Dispose of procedural requests or similar matters;

J. Take official notice of matters of law or material facts;

K. Issue summary orders in supplementary proceedings; and

L. Take any other action authorized by or necessary to carry out this chapter.

The above authority may be exercised on all matters for which jurisdiction is assigned to the examiner by town ordinance, code or other legal action of the town council. The nature of the examiner's decision shall be as specified in this chapter and in each ordinance or code that grants jurisdiction to the examiner. (Ord. 549 § 1, 2005)

17.28.070 Jurisdiction.

A. The examiner is empowered to review any interpretation of the provisions of the zoning ordinance made by the building official, and any order, requirement, decision, or determination relating thereto, in the application for any specific provisions of the zoning ordinance to any parcel of land and/or structure. The examiner may affirm or reverse the interpretation of the provisions of the zoning ordinance made by the building official, any order, requirement, decision, or determination relating thereto, and the examiner's decision shall be based upon the record and the findings in each case, and to that end it shall have all of the powers of the building official.

B. The examiner shall have and exercise original jurisdiction in receiving, granting, or denying all requests for property uses not specified in the zoning ordinance, after public hearing, and a finding of the examiner that the

spirit and general intent of the ordinance are met and that the special use will not be materially detrimental to others.

C. Variances. Where there are undue hardships and practical difficulties which render it difficult to carry out the provisions of the zoning ordinance, the examiner shall have power, in passing upon request for special exemptions, to grant a variance in harmony with the general purpose and intent of the provisions herein contained, and such variances may vary any rules, regulations, or provisions of the zoning ordinance, so that the spirit of the ordinance will be observed, public safety secured and substantial justice done. However, the examiner shall not vary any of the rules, regulations, or provisions of the ordinance unless he or she shall find that all of the following conditions exist in each case:

1. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zone classifications.

2. That the variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.

3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated. (Ord. 549 § 1, 2005)

17.28.080 Decision of hearing examiner.

The examiner shall render a written decision within 10 working days of the conclusion of the hearing, unless a longer period is agreed to by the applicant or, in the opinion of the exam-

iner, additional testimony is warranted. In such case, the hearing examiner shall render a written decision within 10 working days from the conclusions of the reopened hearing and/or the receipt of any requested information. The decision shall include at least the following:

A. Findings of fact and conclusions of law based upon and supported by the record;

B. A decision on the application to grant, deny, or grant with conditions, modifications, and restrictions as the examiner finds reasonable to make the application compatible with the environment, the comprehensive plan, official policies and objectives, and land use regulations. Examples of the kinds of conditions, modifications, and restrictions that may be imposed include, but are not limited to, setbacks, screenings, easements, dedications or additional rights-of-way;

C. No application for a variance shall be granted unless the examiner finds that the requested variance meets all of the requirements of the town code;

D. A statement of the date when the decision will be final unless appealed, together with a description of the appeal procedure;

E. The hearing examiner shall stipulate in the decision, if applicable, any conditions associated with granting of the relief including the time limit after which said variance shall expire if not utilized;

F. The decision of the hearing examiner shall be filed with the town clerk/treasurer and copies shall be mailed to the applicant and to all other parties of record within three working days following the rendering of a written decision. (Ord. 549 § 1, 2005)

17.28.090 Request for reconsideration.

Any party to the proceeding who is aggrieved by the decision of the examiner may submit a written request for reconsideration of the examiner by filing a request with the town clerk/treasurer within 14 calendar days of the examiner's decision. Such request shall spec-

ify the error of law or fact, procedural error or new evidence that could not have been reasonably available at the time of the hearing conducted by the examiner upon which the request is based. Within 10 working days from the date the hearing examiner receives a request for reconsideration, a decision shall be issued on whether or not to reopen the hearing. Said decision shall be mailed to all parties of record within three working days after the examiner's decision is made. (Ord. 549 § 1, 2005)

17.28.100 Appeal of examiner's decision.

The decision of the examiner may be appealed by an aggrieved party to the council within 21 calendar days of the date of mailing of the examiner's decision. All matters of substance of procedure relating to such appeals shall be governed by applicable state statutes and town ordinances. The timely filing of an appeal shall stay the effective date of the examiner's decision until such time as the appeal is adjudicated or withdrawn. (Ord. 549 § 1, 2005)

Chapter 17.30

WIRELESS COMMUNICATION FACILITIES

Sections:

- 17.30.010 Purpose.
- 17.30.020 Policy statement.
- 17.30.030 Exemptions.
- 17.30.040 Site selection criteria.
- 17.30.050 Allowable locations.
- 17.30.060 Siting on public property and public rights-of-way.
- 17.30.070 Permit required.
- 17.30.080 Design criteria.
- 17.30.090 Landscaping requirements.
- 17.30.100 Non-use/abandonment.
- 17.30.110 Special-use permit fee.
- 17.30.120 Processing applications.
- 17.30.130 Site lease.

17.30.010 Purpose.

A. These standards were developed to protect the public health, safety and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunications services in the town. These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or have the effect of prohibiting wireless communication services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent wireless communication services.

B. To the extent that any provision of this chapter is inconsistent with or conflicts with any other town ordinance, this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the town. (Ord. 549 § 1, 2005; Ord. 525 § 1, 2003)

17.30.020 Policy statement.

A. As stated above, the purpose of this chapter is to establish requirements, guidelines, and a process for the siting of antenna support structures, equipment buildings and antenna towers. The goals of this chapter are to:

1. Enhance the ability of wireless communication service providers to provide such service throughout the town quickly, effectively and efficiently;
2. Encourage wireless communication service providers to co-locate on new and existing sites;
3. Encourage wireless communication service providers to locate facilities, to the extent possible, in areas where the adverse impact on town residents is minimal; and
4. Encourage wireless communication service providers to configure facilities in a way that minimizes any significant adverse visual impact.

B. Accordingly, the town council finds that the promulgation of this chapter is warranted and necessary:

1. To manage the location of facilities in the town;
2. To protect residential areas from potential adverse impacts of antenna support structures, equipment buildings and antenna towers;
3. To minimize adverse visual impacts of facilities through careful design, siting, landscaping, screening, and innovative camouflaging techniques;
4. To accommodate a need for facilities to serve the wireless communications needs of town residents;
5. To promote and encourage co-location on existing and new wireless communication facilities as an option rather than construction of additional single-use wireless communication facilities and to reduce the number of such facilities needed in the future;

6. To consider the public health and safety of wireless communication facilities to the extent permitted by the Telecommunications Act of 1996 and subsequent amendments to the Act; and

7. To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures, equipment buildings and antenna towers.

C. Compliance Required.

1. **New Uses.** All new wireless communication facilities, including necessary support systems, shall comply with this chapter.

2. **Existing Uses.** All existing wireless communication facilities, including existing support systems, existing on June 10, 2003, shall be allowed to continue as they presently exist, but will be considered nonconforming uses and structures. Routine maintenance shall be permitted on existing wireless communication facilities, including existing support systems, subject to conformance with all other applicable zoning or building permit requirements. However, construction other than routine maintenance on existing wireless communication facilities, including existing support systems, shall comply with the requirements of this chapter; provided, however, that any existing wireless communication service provider who has an existing contract with the town at the time of passage of the ordinance codified in this chapter shall be governed by the provisions of that contract. (Ord. 549 § 1, 2005; Ord. 525 § 2, 2003)

17.30.030 Exemptions.

The following are exempt from the provisions of this chapter and shall be allowed outright within the town, without a special-use permit for wireless communication facilities:

A. Wireless radio utilized for temporary emergency communications in the event of a disaster;

B. Routine maintenance or repair of a wireless communication facility. (Ord. 549 § 1, 2005; Ord. 525 § 3, 2003)

17.30.040 Site selection criteria.

A. Any applicant proposing to place a wireless communication facility, construct an antenna support structure, equipment building and antenna tower, or mount an antenna on an existing structure, shall demonstrate by engineering evidence that the wireless communication facility, including support systems, must be located on the site to satisfy its function in the applicant's local grid system. Further, the applicant must demonstrate by engineering evidence that the height requested is the minimum height necessary to fulfill the site's function within the grid system.

B. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed telecommunications provider, or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the wireless communication system.

C. Location and design of wireless communication facilities shall consider the impact of the facility on the surrounding neighborhood and the visual impact to such neighborhood, including but not limited to trees, views, scale of structures in the surrounding area, and the height of the proposed structure. (Ord. 549 § 1, 2005; Ord. 525 § 4, 2003)

17.30.050 Allowable locations.

Wireless communications facilities, including antenna tower, support structures and equipment buildings, shall only be allowed on public property at the following locations:

A. Public rights-of-way, except 92nd Ave NE and where the town, in its discretion, determines that all service facilities and utilities shall be undergrounded.

B. Public buildings and property.

C. Public parks. (Ord. 549 § 1, 2005; Ord. 525 § 5, 2003)

17.30.060 Siting on public property and public rights-of-way.

A. The following minimum requirements apply to the placement of wireless communication facilities on public property and public rights-of-way:

1. The facilities will not interfere with the purposes for which the town-owned property or utilities are intended;
2. The facilities will have no significant adverse impact on surrounding private property;
3. The facilities will be located no closer than 70 feet from the nearest private property line measured horizontally at ground level;
4. The applicant shall obtain liability insurance in an amount not less than \$1,000,000;
5. The applicant will submit a letter of credit, performance bond, or other security acceptable to the town to cover the costs of removing the facilities;
6. The wireless communication facility, including support systems, will not interfere with other uses;
7. The applicant must agree that in case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice, the town may require the applicant to remove the facilities at the applicant's expense;
8. The applicant must obtain all necessary land use approvals;
9. The applicant must cooperate with the town's objective to encourage co-locations;
10. The applicant must remove the facility in the event that it is abandoned or there is no current site lease; and
11. The facility must be constructed in such a manner as to provide a stealth appearance.

B. Special Requirements for Parks. The use of town-owned parks for wireless communication facilities, including support systems, brings with it special concerns due to the unique nature of these sites. The placement of wireless communication facilities in a park will be allowed only when, in addition to the requirements of subsection A of this section, the applicant demonstrates the following:

1. The proposed location has not been designated as a critical area, and the wireless communication facility is not within 150 feet of a critical area;
2. The facility will not interfere with normal public use or impact existing vistas;
3. The facility is constructed in such a manner as to provide a stealth appearance and is consistent with the existing flora and fauna of the park. (Ord. 549 § 1, 2005; Ord. 525 § 6, 2003)

17.30.070 Permit required.

The applicant for a wireless communication facility shall obtain a special-use permit for the installation and operation of the facility. An application for a special-use permit for installing a wireless communications facility shall consist of the following:

- A. Photosimulations of the proposed facility from surrounding areas of not less than 300 feet in all directions;
- B. A site elevation and landscaping plan indicating the specific placement of the wireless communication facility, including support systems, on the site, the location of existing structures, trees and other significant site features, the type and location of plant materials to be used to screen the facility, and the proposed color(s) of the facility;
- C. Copies of any environmental documents required by any federal agency;

D. A site plan clearly indicating the location, type and height of the proposed antenna tower, antenna support structure, and equipment buildings, including but not limited to all stealth features;

E. A current map showing the locations and service areas of other wireless communication facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the town, including the capacity of the proposed site to extend that service area beyond that which is covered already from an existing wireless communication facility;

F. The legal description of the parcel;

G. The method of fencing, finished color and, if applicable, the method of camouflage;

H. A statement by the applicant that the construction of the proposed antenna tower, antenna support structure, and equipment buildings shall accommodate co-location of additional facilities or antennas for future users;

I. A complete SEPA checklist and any supplemental environmental studies required by the town;

J. Engineering evidence demonstrating that the wireless communication facility, including support systems, must be located on the proposed site to satisfy its function in the applicant's local grid system. (Ord. 549 § 1, 2005; Ord. 525 § 7, 2003)

17.30.080 Design criteria.

Approval of all special-use permits shall be based on the following design criteria:

A. Co-location. New facilities shall be designed to accommodate co-location of additional wireless communication facilities unless the applicant demonstrates why such design is not feasible for technical or physical reasons.

B. Architectural Compatibility. Wireless communication facilities shall be architecturally compatible with the surrounding buildings and land uses in the town, and screened or oth-

erwise integrated, through location and design, to blend in with the existing characteristics of the site.

C. Setbacks. All wireless communication facilities shall comply with the minimum setback requirements of the Yarrow Point Zoning Code. A variance shall be required to vary from the minimum setback requirements.

D. View Corridors. Consideration shall be given to the placement of antenna towers, antenna support structures and equipment buildings such that said facilities do not obstruct current existing views.

E. Lights, Signals and Signs. No signals, lights or signs shall be permitted on any wireless communication facilities, including antenna towers, antenna support structure, and equipment buildings.

F. Equipment Structures. All ground-level equipment, equipment buildings and antenna support structures shall be placed underground unless the applicant can, by sound engineering studies, demonstrate that undergrounding is not feasible. In the event an applicant demonstrates that ground-level equipment, equipment buildings, and antenna support structures cannot be placed underground, then the following standards shall apply:

1. The maximum finished area occupied by the structure shall be 100 square feet and the maximum structure height shall be five feet. The equipment building may be located no more than 50 feet from the antenna or facility.

2. Ground-level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means.

3. Equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures.

G. Federal Requirements. All antennas and antenna support structures must meet or exceed all federal regulations.

H. Building Codes, Safety Standards. To ensure the structural integrity of towers, antennas, antenna support structures and facilities, the applicant/owner shall ensure that they are maintained in compliance with standards contained in the applicable town building codes and the applicable standards for antenna support structures published by the Electronic Industry Association (EIA) as amended from time to time. If, upon application for a building permit or inspection, the town concludes that an antenna support structure fails to comply with such codes and standards and constitutes a danger to persons or property, then upon written notice provided to the owner by the town, the owner shall have 30 days to bring the antenna support structure into compliance with such standards. If the owner fails to bring the antenna support structure into compliance within 30 days, the town may remove the antenna support structure at the owner's expense.

I. Structural Design. Antenna support structures shall be constructed to EIA standards, which may be amended from time to time, and to all applicable codes adopted by the town. Further, any improvements or additions to existing antenna support structures shall require submission of site plans stamped by a professional engineer which demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time applications for building permits are submitted.

J. A wooden fence not more than six feet in height from the finished grade shall be provided around each wireless communication facility. Access to the facility shall be through a locked gate.

K. Height of Antenna and Antenna Support Structure. No antenna, antenna support structure or mount shall exceed 45 feet in height from existing grade. Exceptions to this

requirement may be allowed only after the applicant obtains a variance. (Ord. 549 § 1, 2005; Ord. 525 § 8, 2003)

17.30.090 Landscaping requirements.

Approval of all special-use permits shall be based on the following landscaping requirements:

A. Landscaping, as described herein, shall be required to screen wireless communication facilities as much as possible, to soften the appearance of the facility. The town may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, on top of a utility pole and/or other equipment, or is housed inside an existing structure, landscaping may not be required.

B. Screening. The visual impacts of a wireless communication facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. Landscaping and buffering shall be required around the perimeter of the antenna and antenna support structure, except that the town may waive the standards for those sides of the facility that are not in public view. Landscaping shall be installed on the outside of fences. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements. (Ord. 549 § 1, 2005; Ord. 525 § 9, 2003)

17.30.100 Non-use/abandonment.

A. Abandonment. No less than 30 days prior to the date that a wireless communication service provider plans to abandon or discontinue operation of a facility, the provider must notify the town by certified U.S. mail of the proposed date of abandonment or discontinuation. In the event that a licensed carrier fails to

give notice, the facility shall be considered abandoned upon the town's discovery of discontinuation of operation. Upon such abandonment, the provider shall have 60 days (or additional period of time determined in the reasonable discretion of the town) within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

2. In the event that abandonment as defined herein occurs due to relocation of an antenna at a lower point on the antenna support structure, the operator shall have six months from the date of effective abandonment to collocate another service on the antenna and antenna support structure. If another service provider is not added to the antenna support structure, the operator shall promptly dismantle and remove that portion of the antenna support structure which exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes made to wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment;

3. Dismantle and remove facility. If the tower, antenna, foundation, and facility are not removed within the 60-day time period or additional period of time allowed by the town, the town may remove the antenna, antenna support structure, foundation and related facility at the owner's/provider's expense. If there are two or more providers co-locating on a facility, this provision shall not become effective until all providers cease using the facility, except as otherwise provided herein.

- B. At the earlier of 60 days from the date of abandonment without reactivating or upon completion of dismantling and removal, town approval for the facility shall automatically expire. (Ord. 549 § 1, 2005; Ord. 525 § 10, 2003)

17.30.110 Special-use permit fee.

The applicant shall pay a fee for a special-use permit to install a wireless communication facility. The fee shall be established by resolution of the town council and may be amended from time to time. (Ord. 549 § 1, 2005; Ord. 525 § 11, 2003)

17.30.120 Processing applications.

- A. The planning commission shall be vested with the authority by this chapter to determine at a public hearing whether to grant, grant with conditions, or deny an application for a special-use permit for the installation of a wireless communication facility.

- B. The planning commission shall be vested with the authority by this chapter to determine at a public hearing whether to grant, grant with conditions, or deny a variance. In addition to the requirements of YPMC 17.28.070(C) ("Variances"), the planning commission shall consider the following:

1. The impact of the facility on adjacent properties;

2. Alternative sites for wireless communication facilities; and

3. The extent to which screening and camouflaging will mitigate the effect of the proposed wireless facilities. (Ord. 549 § 1, 2005; Ord. 525 § 12, 2003)

17.30.130 Site lease.

Upon the granting of a special-use permit by the planning commission, the applicant shall enter into a lease with the town of Yarrow Point for the use of town property. (Ord. 549 § 1, 2005; Ord. 525 § 13, 2003)

Chapter 17.32

VIOLATION – PENALTY

Sections:

- 17.32.010 Violations and penalties.
- 17.32.015 Enforcement of hedge violations.
- 17.32.020 Conflicts.

17.32.010 Violations and penalties.

It shall be unlawful for any person to build, erect, construct, alter, rebuild, renovate, enlarge or expand any building, structure or use within the town of Yarrow Point in violation of the provisions of this title. Any person so violating this title shall be punished by a fine not to exceed \$300.00 or by imprisonment for not to exceed 90 days, or by both such fine and imprisonment. Each day that a violation is continued shall be considered a separate offense. (Ord. 549 § 1, 2005)

17.32.015 Enforcement of hedge violations.

A. Enforcement shall be initiated by written complaint to the building official by a directly affected individual. For the purposes of this section, a “directly affected property owner” shall mean an individual property owner whose property shares a common boundary line with the property of the alleged violator. Further, the complaint shall only involve the portion of the alleged nonconforming hedge that is within the setbacks of the common boundary line of the alleged violator and the directly affected individual.

B. The building official shall inspect the alleged violation and make a determination as to whether or not a violation exists.

C. If the building official finds that no violation exists, he/she will notify the complaining party in writing of the reasons why a violation does not exist.

D. If the building official finds that a violation exists, he/she will give written notice of the violation to the owner. Such notice shall explain why there is a violation, shall include

a copy of the section of this chapter stating the violation, and shall specify the corrective action necessary to bring the hedge into compliance with this chapter. The notice shall give the owner 30 days to correct the violation.

E. Prior to sending a notice of violation, the building official shall attempt to meet personally with the complainant and violator to resolve the violation without the issuance of the notice.

F. Upon receipt of a notice of violation, the property owner may appeal the notice of violation to the town council within 14 days. The appeal shall be submitted in writing and shall detail the reasons why the hedge is not in violation of this chapter.

G. The town council, upon hearing the appeal, shall either affirm the decision of the building official that a violation of this chapter exists or find that there is no violation. If the council affirms decision of the building official, the property owner shall have 30 days to comply with the notice of violation.

H. Failure to comply with a notice of violation shall be a civil infraction with a fine of \$71.00 per day for each day the violation continues in existence. (Ord. 549 § 1, 2005)

17.32.020 Conflicts.

In the event the provisions of this title shall conflict with any provisions of the town building code, the terms hereof shall govern. (Ord. 549 § 1, 2005)