

**TOWN OF HUNTS POINT
WASHINGTON
ORDINANCE NO. 480**

**AN ORDINANCE OF THE TOWN OF HUNTS POINT,
WASHINGTON, REPEALING AND REENACTING HUNTS
POINT MUNICIPAL CODE CHAPTER 8.25 (TREE CODE);
PROVIDING FOR SEVERABILITY; AND ESTABLISHING
AN EFFECTIVE DATE**

WHEREAS, after substantial public input and review by the Parks Commission, the Town desires to amend its tree code to reflect the community's input;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF HUNTS POINT, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repealer. Hunts Point Municipal Code Chapter 8.25 is hereby repealed in its entirety.

Section 2. HPMC Chapter 8.25 (Tree Code) Re-Enacted. Hunts Point Municipal Code Chapter 8.25 (Tree Code) is hereby re-enacted to read as follows:

**Hunts Point Municipal Code (HPMC) Chapter 8.25
TREE CODE**

Sections:

- 8.25.010 Short title.**
- 8.25.020 Definitions.**
- 8.25.030 Town Arborist.**
- 8.25.040 Purpose and Intent.**
- 8.25.050 Tree Removal Permit – Required.**
- 8.25.060 Tree Removal Permit – Application.**
- 8.25.070 Tree Removal Permit – Issuance.**
- 8.25.080 Emergency Tree Removal.**
- 8.25.090 Mitigation for Significant Tree Removal.**
- 8.25.100 Mitigation and Significant Tree Species.**
- 8.25.110 Appeals.**
- 8.25.120 Violation – Penalty for Unpermitted Tree Removal.**
- 8.25.130 Construction Site Tree Protection.**

8.25.010 Short Title.

This chapter shall be known and may be cited as the "Tree Code" of the Town of Hunts Point.

8.25.020 Definitions.

“Caliper” means a synonym for tree trunk diameter used to measure the size of nursery stock; by convention, measured six inches above the ground for stems less than or equal to four inches and at 12 inches above the ground for stems greater than four inches.

“Canopy Cover” means the proportion of ground surface covered by the canopy layer(s) when projected vertically downwards. Cover is usually expressed as a percentage.

“Crown cleaning” means the removal of dead, dying, diseased, crowded, weakly attached or low-vigor branches, and new sprouts from a tree’s crown which will not adversely affect the health of the tree. All pruning should comply with American National Standards Institute (ANSI) A300 standards.

“Crown raising” means the removal of the lower branches of a tree in order to provide a height of up to eight feet for pedestrian clearance, up to 16 feet for vehicular clearance, or such other increased height as deemed appropriate for an allowed use on the lot upon which the tree is situated which will not adversely affect the health of the tree. All pruning should comply with American National Standards Institute (ANSI) A300 standards.

“Crown thinning” means the selective removal of branches not to exceed more than 25 percent (25%) of the leaf surface to increase light penetration and air movement, and to reduce weight. All pruning should comply with American National Standards Institute (ANSI) A300 standards.

“Crown reduction” means reducing the height or spread of a tree by performing appropriate pruning cuts. This is an appropriate method to reduce the end weight of lateral branches. All pruning should comply with American National Standards Institute (ANSI) A300 standards.

“DSH” means the diameter of a tree at standard height; the diameter of the trunk measured 54 inches (4.5 feet) above grade.

“Deciduous tree” means any tree or other plant that loses its leaves sometime during the year and stays generally leafless during the cold season.

“Evergreen tree” means any tree that stays green all year, has needles or scales for leaves, and produces seeds in protective cones.

“Hazardous tree” means any tree receiving an 11 or 12 rating under the Pacific Northwest chapter of the International Society of Arboriculture Tree Risk Assessor rating method set forth in “Tree Risk Assessment in Urban Areas and the Urban/Rural Interface,” which is hereby adopted by reference as Exhibit A, or any tree receiving a 9 or 10 rating under this method at the discretion of the Town.

“Groves” a group of eight (8) or more trees of the species listed in Section 8.25.100 with a DSH of six inches or greater that form a continuous canopy. Trees that are part of a grove shall also be considered significant if they meet these criteria.

“Qualified professional” is an individual with a minimum of three years experience in tree evaluation and, where applicable, works directly with the protection of trees during construction along with one of the following qualifiers:

- Society of American Foresters (SAF) Certified Forester;
- American Society of Consulting Arborists (ASCA) Registered Consulting Arborist;
- Washington State Registered Landscape Architect; or
- International Society of Arborists (ISA) Certified Arborist with an Associate Degree and/or a minimum of two years of college-level credit and/or 120 Continuing Education Units.

To undertake tree risk assessment, a qualified professional must have a Tree Risk Assessor certification as established by the Pacific Northwest Chapter of the International Society of Arboriculture (ISA) or equivalent experience and training.

“Root protection zone (RPZ)” means the ground area around a tree with one foot of radius in all directions for each inch of trunk diameter measured at four feet, six inches above grade. In no event shall the root protection zone be less than a ten foot radius. In cases with substantial size trees, 24” DSH and greater, a suitable RPZ should be established at the discretion of the town arborist.

“Significant tree” means any evergreen tree, and all deciduous trees set forth in Section 8.25.100(2), with a trunk diameter greater than ten inches, measured at four feet, six inches above grade or, that meets the criteria of grove trees, or any tree planted as mitigation under this chapter.

“Snag” refers to a standing, partly or completely dead tree, often missing a top or most of the smaller branches.

8.25.030 Town Arborist.

The office of town arborist is appointed by the town council and is hereby established for the purpose of assisting the Town, when called upon to do so, in supervising, administering, making recommendations to the town administrator, and enforcing the provisions of this chapter. The town arborist shall review and prepare a written recommendation for each tree removal permit application received by the Town.

8.25.040 Purpose and Intent.

The Town Council has determined that an overall objective of this Tree Code is to retain or maintain a canopy cover of sixty (60) percent of the land area of Hunts Point in order to maintain and protect the privacy of residents and the established character of the community. An instrument by which this will be achieved is through the enforcement of these regulations.

The Tree Preservation Code recognizes trees and other vegetation as important elements of the physical environment that are integral to Hunts Point's community character. Protecting the sylvan nature, enhancing and maintaining healthy trees and vegetation are key community values. A goal is to achieve an overall tree canopy coverage of sixty (60) percent for the community with a variety of ages and species and to periodically measure the overall tree canopy, and to create a process for replacement of trees offsite and in public rights-of-way, public parks or a Town Hall upon recommendation of the town arborist.

To replace, protect and maintain trees impacted by improvements to SR-520 and to protect trees within and adjacent to Town rights-of-way.

These regulations are adopted for the following purposes, which shall serve as standards for significant tree protection, the issuance of tree removal permits under HPMC 8.25.070, and the issuance of permits under HPMC 15.45:

- (1) To promote the public health, safety, and general welfare of the citizens of Hunts Point in a manner consistent with the purposes addressed in the Town's comprehensive plan;
- (2) To preserve and enhance the Town's physical and aesthetic character by preventing indiscriminate removal or destruction of trees on developed and undeveloped property;
- (3) To preserve and enhance the dominance of the following characteristics historically present in the community:
 - (a) Shade from tall trees upon the public streets and ways;
 - (b) The presence of trees of substantial size (24" DSH or greater); to obscure the view of artificial structures or surfaces from the public streets and ways and from adjoining properties; and
 - (c) The presence of spacious areas of natural trees indigenous to forested lands of western Washington and historically present in the town;
- (4) To encourage the retention of large trees for the abatement of noise, and for wind protection;
- (5) To promote building and site development practices consistent with the town's natural topography and historically dominant vegetation features;
- (6) To minimize surface and ground water runoff and diversion, to retain undisturbed native soil for absorbing, filtering, and reducing runoff and water pollution to prevent erosion of the soil, siltation and water pollution in Lake Washington, and to minimize the need for additional storm drainage facilities;
- (7) To preserve the existing and unique advantages of the Town environment for quiet, secluded, and peaceful residential living;

(8) To retain trees and ground cover for the purpose of reducing air pollution, and providing wildlife habitat;

(9) To implement the goals and objectives of the Washington State Environmental Policy Act and the State Shoreline Management Act;

(10) To promote and ensure careful construction methods, techniques, and procedures that will minimize impact to significant trees, on and off site, and to require site restoration and replanting following construction;

(11) To protect significant trees as a community resource and to prevent a net loss of trees and canopy cover; and

(12) To provide procedures to implement the Town's current and future tree management plans.

8.25.050 Tree Removal Permit – Required.

No person, corporation or other entity shall remove or destroy, or cause to be removed or destroyed, a significant tree within the Town of Hunts Point without first having obtained a tree removal permit from the town. A permit shall not be required for pruning that complies with American National Standards Institute (ANSI) A300 standards. A permit shall not be required for the removal of trees less than six inches DSH that are part of a groves' contiguous canopy if in the opinion of the town arborist their removal does not damage the health of the groves.

8.25.060 Tree Removal Permit – Application.

(1) An application for a tree removal permit shall be submitted on a form provided by the Town and shall be signed by the owner of the property and shall be accompanied by all of the following documents and information as are determined to be necessary by the Town:

- (a) Name, address, and telephone number of the applicant and the owner (if different);
- (b) A plot plan showing the location of improvements, the location of the tree(s) proposed for removal, and adjacent significant trees that may be impacted from proposed activities, including those on adjacent property within 20 feet of the property line;
- (c) Reason for removal;
- (d) A preliminary plan indicating the locations and species for all trees to be planted as mitigation;
- (e) Where the plot plan identifies significant trees within the 20 feet of the property line on adjacent property, proof that the applicant has notified the neighboring property owners of the application, either by signature, or by United States Postal Service return receipt if the property owner is unavailable for signature; and
- (f) Any other information as deemed necessary by the Town to further the purposes of this chapter.

(2) Where a tree removal permit is issued for new construction or additions to existing structures and there is a change in the location of any of the proposed improvements, the applicant shall be required to get approval for a revised tree permit application and comply with any notice requirements if the town arborist determines that the revision would impact different or additional trees.

(3) The town shall complete its review and make its decision as soon as reasonably possible after a complete application is submitted.

(4) Any permit granted for the removal of a significant tree shall expire six months from the date of issuance. Upon a showing of good cause, a permit may be extended for an additional six months.

8.25.070 Tree Removal Permit – Issuance.

(1) A tree removal permit will be issued when it is determined by the Town that such tree removal will be consistent with the purposes stated in HPMC 8.25.040 and also that it is reasonably necessary for one or more of the following reasons:

(a) The tree is dead;

(b) The tree is hazardous, as defined in HPMC 8.25.020;

(c) To accommodate the building of new construction or additions to existing structures which cannot be located without such tree removal, and which otherwise comply with zoning and building code requirements; for purposes of this Section, “new construction or additions to existing structures” includes pools, sport courts, and associated appurtenances;

(d) A new driveway of customary and reasonable width cannot be reasonably located without such tree removal or an existing driveway cannot be reasonably utilized due to the proximity of the tree to the driveway or actual or imminent damage to a residential structure or foundation will occur as determined by the town arborist;

(e) The avoidance of a substantial risk of damage to an existing residential structure, garage or electrical, telephone or other utility line; provided, no permit shall be issued if said risk may reasonably be avoided by pruning, trimming or any other operation without the complete removal of the tree or the creation of a snag;

(f) The installation and maintenance of public utilities or public streets by the town or its contractors cannot be reasonably accomplished without such tree removal.

(2) If the applicant asserts that the tree removal is necessary solely to assure that the property enjoys reasonable amounts of light and view, the tree removal permit application shall be processed as a variance by the hearing examiner, pursuant to the procedure set forth in Chapter

18.55 HPMC. The town arborist shall prepare a report, at the expense of the applicant, and make a recommendation whether the proposed removal and mitigation meet the intent of the code.

(3) All work for which a permit is required under this chapter shall be subject to inspection by the Town and shall be done in accordance with all town conditions and requirements.

(4) Any tree removal permit that is issued shall not be effective for ten (10) days until the appeal period has expired. Any tree removal permit that is timely appealed shall be stayed during the pendency of the appeal.

8.25.080 Emergency Tree Removal.

(1) A significant tree may be removed prior to the issuance of a tree removal permit only in an emergency situation involving immediate danger to life or property as long as the following requirements are met:

- (a) The Town is notified within five business days of the tree having been removed; and
- (b) The Town is provided such information as the town requests in order to verify the emergency; photographic documentation will be required.

(2) A tree removal permit must be applied for within 20 days following the removal of the tree along with a proposed mitigation/replacement plan.

8.25.090 Mitigation for Significant Tree Removal.

(1) Whenever a significant tree is removed or destroyed in accordance with the provisions of this Chapter, the owner of the property upon which said tree was located shall replace it with two similar trees of the same species or such species as recommended by the town arborist. Replacement evergreen trees shall be a minimum height of ten feet tall and have a full, well-developed crown of foliage. Deciduous trees shall be three inches in caliper. Mitigation is to occur on site unless other arrangements are made with the town, as set forth in subsection (4) of this section, or at a location determined by the town arborist.

(2) Mitigation requirements must be met within six months of the tree removal or within six months of the expiration of a building permit, whichever is later. In the case of concurrent new construction or site development, mitigation requirements must be met before final inspection or certificate of occupancy is issued. If trees are removed pursuant to new construction, grading, excavation, or a development project work, mitigation must occur in accordance with the provisions in this chapter. At the sole discretion of town staff the town may require the applicant to post a bond to guarantee compliance with the provisions of this chapter.

(3) Trees planted as mitigation must be maintained with adequate water and care to survive a three-year warranty period or be replaced at the applicant's expense. An annual site inspection by the town arborist, or an annual report by a qualified professional, shall be provided to the Town for each of the three years. The report shall discuss the health condition of the trees and be

approved by the town arborist. The cost of the inspection, report preparation and report review report shall be paid for by the applicant.

(4) At its sole discretion after request by a tree removal permit applicant, the Town may agree to replant new trees required as mitigation under subsection (1) of this section within the right-of-way or on other public property. In such cases, the permit applicant shall pay into the Town's tree mitigation account the installed tree cost value of the mitigation trees otherwise required by subsection (1) of this section, as that installed tree cost value is determined by the town arborist pursuant to then-current edition of the Pacific Northwest Chapter of the International Society of Arboriculture's Species Ratings for Landscape Tree Appraisal, and hereby adopted by reference as Exhibit C. Payments into the tree mitigation account shall be used by the Town for acquiring, maintaining, and preserving wooded areas, and for the planting and maintaining of trees within the Town. Penalties and other sanctions for unpermitted tree removal are set forth in HPMC 8.25.120 and 8.25.130.

8.25.100 Mitigation and Significant Tree Species.

(1) Trees planted as mitigation, whether on the applicant's property, adjacent property (with the owner's permission) or on public property pursuant to HPMC 8.25.090(3), should replace the same species removed wherever possible or with a species recommended by the town arborist. The following list of tree species should be used as mitigation.

Western Red Cedars (*Thuja plicata*);
Douglas Firs (*Pseudotsuga menziesii*);
Western and Mountain Hemlocks (*Tsuga heterophylla* or *T. mertensiana*); or
Incense Cedar (*Calocedrus decurrens*).

(a) Dwarf varieties of the above species can be used when appropriate and approved by the town arborist.

(b) When native conifers are not practicable, the following non-native species, if approved by the town arborist, are recommended:

Japanese Black Pine (*Pinus thunbergiana*);
Scots Pine (*Pinus sylvestris*); or
Italian Stone Pine (*Pinus pinea*).

(2) The following significant deciduous trees shall be protected.

Oak (*Quercus* sp.)
Madrona (*Arbutus menziesii*)
Dogwood (*Cornus*)

The town arborist shall determine the species to use as mitigation when deciduous trees are removed.

8.25.110 Appeals.

Any person or persons aggrieved by any action of the Town relating to a tree removal permit, including any person receiving a civil citation or order imposing fines may, within ten days of such action, file a notice of appeal to the hearing examiner, setting forth the reasons for such an appeal. The hearing examiner shall hear and determine the matter in accordance with the rules and procedures set out in HPMC Title 18 and may affirm, modify or disaffirm the administrative decision within 45 days of the filing of the notice of appeal.

8.25.120 Violation – Penalty for Unpermitted Tree Removal.

(1) A violation of any of the provisions of this chapter shall be a civil infraction and any person, corporation or other entity that violates this chapter shall receive a fine of \$1,000.00 per violation plus \$1,000.00 per inch of diameter (DSH) for each significant tree that is illegally removed, provided that the maximum fine for the illegal removal of trees listed in Section 8.25.100(2) shall not exceed \$25,000.00. It shall be a separate offense for each and every act in violation of any of the provisions of this chapter. It shall furthermore be a separate offense for each and every tree removed in violation of this chapter.

(2) In addition to the penalty set forth in subsection (1) of this section, trees that were unlawfully removed or damaged shall be replaced in accordance with Sections 8.25.090 and 8.25.100.

(3) Fines levied under this chapter shall be deposited into the tree mitigation account and shall be used by the town for acquiring, maintaining, and preserving wooded areas, and for the planting and maintaining of trees within the Town.

8.25.130 Construction Site Tree Protection.

(1) A pre-application meeting with appropriate town staff and the town arborist is required prior to the submittal of a tree removal permit on properties proposed for construction. The applicant shall sign a form attesting to the fact that it had a pre-application meeting and received certain materials from the town staff and/or town arborist.

(2) All significant trees on the property and within the building envelope and within 20 feet of the applicant's property shall be accurately located on a current site survey prior to performing any work. All staging areas must be defined on the survey and on the ground and be pre-approved prior to issuance of a tree removal permit. All site work shall be accomplished so as to avoid damage to trees or other vegetation and not occur within the RPZ of significant trees and in accordance with Chapter 15.45 HPMC. All areas to be disturbed must be reviewed by the town arborist.

(3) All significant trees identified on the site survey with potential to be impacted by site development or construction, as determined by the town arborist, must be protected in accordance with this Section during such development or construction activities.

(4) Prior to development or construction activity, documentation shall be provided by the applicant to the Town that demonstrates that neighboring property owners have been made aware, by letter or e-mail, that a significant tree is identified on the neighboring property as one with the potential to be impacted by applicant's site development.

(5) The following tree protection requirements are required at a minimum and must be included on site permit documents:

- a. 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.
- b. All tree protection fencing shall be installed and its location approved by the town arborist prior to the commencement of work on site.
- c. A two to four inch deep layer of arborist woodchip mulch shall be placed over the soil in the RPZ. Hog fuel is acceptable.
- d. No debris or construction materials may be stored, nor grade changes occur, within this protected area. No parking, dumping, or burning is allowed.
- e. Work required for removal of unwanted vegetation within the RPZ areas will be hand work only, NO HEAVY EQUIPMENT.
- f. 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.
- g. 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.
- h. 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.
- i. Where it has been determined that roots of a significant tree may be encountered during excavation or grading, a Certified Arborist shall be on site to supervise any root pruning and to assess the potential impact of such pruning. Any root greater than 1.5" 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.
- j. Where access for machinery or any vehicle is required within the RPZ of any significant tree, the soil should be protected from compaction. Acceptable methods may include 18" of wood chips or hog fuel, plywood, or steel sheets. The town arborist should be contacted a minimum of 48 hours before entering into the RPZ.

- k. Tree protection fencing shall not be moved without authorization from the site supervisor. All fencing is to be left in place until the completion of the project.
- l. 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.
- m. Any trees adjacent to high traffic areas or building envelopes shall be pruned by an International Society of Arboriculture Certified Arborist using ANSI A300 American Standards for Pruning to remove dead wood, provide clearance, and cabling or bracing.
- n. Supplemental irrigation for all protected trees is required during the summer months or prolonged periods of dry weather as determined by a qualified professional.
- o. All significant, preserved, and replacement trees shall be maintained for a period of three (3) years after site development or mitigation.

(6) Exceptions to this requirement may be requested, and must be accompanied by a report prepared by a qualified professional arborist. Exceptions will be granted by the Town only if an appropriate alternative plan for significant tree protection is proposed which will result in the protection of all significant trees.

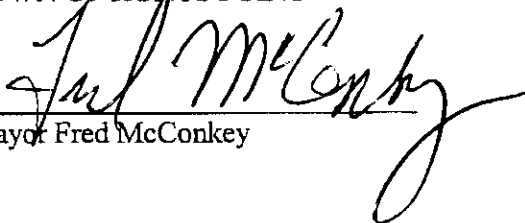
(7) There shall be a rebuttable presumption that any development or construction activity within the RPZ of a significant tree is responsible for the failure of any tree to thrive or that experiences rapid decline within three years from the date that a development or construction activity receives final approval. A tree that fails within this time period shall be subject to the mitigation set out in Section 8.25.090(1).

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the Town, and shall take effect and be in full force five (5) days after the date of publication.

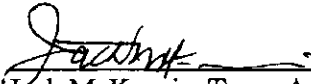
ADOPTED BY THE TOWN COUNCIL AT A REGULAR MEETING THEREOF ON THE 3rd DAY OF May, 2010.

TOWN OF HUNTS POINT




Mayor Fred McConkey

ATTEST/AUTHENTICATED:



Jack McKenzie, Town Administrator

Approved as to form:



Margaret J. King, Assistant Town Attorney

Filed with the Town Clerk:

Passed by the Town Council:

Date of Publication:

Effective Date: