

TOWN OF COUPEVILLE  
Coupeville, Washington

**ORDINANCE NO. 688**

AN ORDINANCE of the Town Council of the Town of Coupeville, amending the Town's development regulations by amending various sections of Title 16 of the Coupeville Town Code relating to clearing and grading regulations.

**WHEREAS**, the Town of Coupeville adopted a Growth Management Comprehensive Plan in October 1994, which was its first comprehensive plan developed and approved consistent with the Washington State Growth Management Act (RCW 36.70A); and

**WHEREAS**, pursuant to RCW 36.70A.130 each local comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city; and

**WHEREAS**, the Coupeville SEPA Responsible Official issued and distributed an Addendum to a previously issued Determination of Nonsignificance on prior a recent amendment to the Clearing and Grading regulations on November 22, 2010;

**WHEREAS**, preserving or replanting trees is a means of providing / maintaining carbon storage in support of the State and Town's greenhouse gas reduction initiative;

**WHEREAS**, the Town believes it is important to advise permit applicants of the coordination of permits associated with clearing and grading activities;

**WHEREAS**, the 30% canopy goal referenced in the proposed clearing and grading regulations is based upon the science and analysis developed in the *Urban and Community Forests of the Pacific Region - General Technical Report NRS-65 (October 2009)* and *Sustaining America's Urban Trees and Forests General Technical Report NRS-62 (June 2010)* both prepared by the USDA;

**WHEREAS**, The Planning Commission held a public hearing on the specific amendments to the clearing and grading regulations on December 7, 2010; and following due and proper consideration of public testimony received and following their own deliberations, the Planning Commission unanimously approved a motion to forward the amendments specified in Exhibit A attached hereto to the Town Council with their recommendation of approval. The Planning Commission deemed their recommendations to be consistent with the Implementation Guidelines of the Comprehensive Plan and are deemed to be necessary so that the Comprehensive Plan responds to new information, changed growth philosophies, citizen initiatives or other identified needs; and

**WHEREAS**, The Town forwarded the proposed clearing and grading regulations to the Washington State Department of Commerce and requested expedited review of the proposal pursuant to RCW 36.70A.106. Expedited review was granted on January 4, 2011 under authority of RCW 36.70A.106(3)(b); and

**WHEREAS**, pursuant to RCW 36.70A.090 the proposal adopts innovative land use management techniques; and

proposed revisions, the recommended findings on review and proposed revisions, and the public comments received, the Planning Commission found and declared that the review and needed revisions have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW.

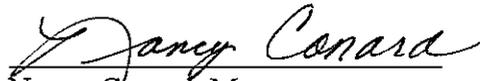
**NOW THEREFORE, the Coupeville Town Council does hereby ordain as follows:**

**Section 1.** The report and findings of the Planning Commission are hereby adopted by the Town Council as fully set forth in the attached Exhibit A.

**Section 2.** The Town Clearing and Grading standards and procedures are amended as set forth in the attached Exhibit B.

**Section 3.** This ordinance will be in full force and effect upon publication by summary in the official newspaper.

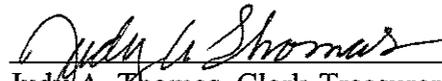
PASSED by the Town Council of the Town of Coupeville and APPROVED by the Mayor this 11<sup>th</sup> day of January 2011.

  
Nancy Conard, Mayor

APPROVED AS TO FORM

ATTEST:

  
Grant Weed, Town Attorney

  
Judy A. Thomas, Clerk-Treasurer

Approved: 1-11-11  
Published: 1-19-11  
Effective Date: 1-19-11

## EXHIBIT A

### Findings of Fact and Conclusions of Law of the Town Planning Commission

December 8, 2010

**From:** Town of Coupeville Planning Commission  
**To:** Mayor and Town Council  
**Subject:** Amendment to the Town's Clearing and Grading Code Provisions – Chapter 16.20

#### **BACKGROUND:**

At the request of the Town Council, the Town of Coupeville Planning Commission held a Public hearing pursuant to RCW 35.63.100 on December 7, 2010 to consider an amendment to CTC 16.12.

On July 27, 2010 the Town Council adopted Ordinance No. 683, relating to Interim Tree Protection in the Town of Coupeville. Interim regulations remain effective for an initial period of six months. The duration of the adopted interim tree protections may be renewed for one or more six-month periods if a public hearing is held and findings of fact are made prior to each renewal. Without renewal, the interim tree protections will expire on January 27, 2011.

As stated in the adopted interim ordinance “*the primary goal of this interim regulation is to prevent haphazard removal and destruction of trees and tree cover, in order to preserve the ecological health, aesthetic character, and a quality of life in Coupeville. Tree and vegetation retention provides substantial benefits, including but not limited to, erosion prevention, reductions in storm-water runoff, preservation of fish and wildlife habitat, improved water and air quality, energy conservation, reductions in the development impacts on the stormwater drainage system and hydrologic resources, and to provide a better transition between adjacent land uses. This Interim regulation seeks to conserve trees, tree cover, and native species to ensure that these benefits continue to be realized by current and future generations until such time as the collaborative and comprehensive effort with Island County and the Ebey's Landing National Historical Reserve Trust Board is complete and the uniform code and design manual adopted*”.

The Town Council directed staff to prepare a permanent code amendment for their consideration before the expiration of the Interim protections in January of 2011. The code amendment also includes provisions for tree canopy retention standards for developing or redeveloping lots. The proposed tree canopy retention provision does not pertain to existing developed lots unless the owner is proposing a substantial increase in the existing building footprint. The proposal also does not require the preservation of any specific type or size of tree.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Pursuant to RCW 36.70A.130 each local comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city; and
2. The Coupeville SEPA Responsible Official issued and distributed an Addendum to a previously issued Determination of Nonsignificance on prior a recent amendment to the Clearing and Grading on November 22, 2010. Preserving or replanting trees is a means of providing / maintaining carbon storage in support of the State and Town's greenhouse gas reduction initiative;

3. The Planning Commission held a public hearing on the specific amendments on December 7, 2010; and following due and proper consideration of public testimony received and following their own deliberations the Planning Commission unanimously approved a motion to forward the amendments specified in Exhibit A attached hereto to the Town Council with their recommendation of approval. The Planning Commission deemed their recommendations to be consistent with the Implementation Guidelines of the Comprehensive Plan and necessary so that the Comp Plan responds to new information, changed growth philosophies, citizen initiatives or other identified needs; and
4. The Town forwarded the proposed amendment to the Washington State Department of Commerce and requested expedited review of the proposal pursuant to RCW 36.70A.106. Expedited review was granted on January 4, 2011 under authority of RCW 36.70A.106(3)(b); and
5. Pursuant to RCW 36.70A.090 the proposal adopts innovative land use management techniques; and
6. Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions, the recommended findings on review and proposed revisions, and the public comments received, the Planning Commission finds and declares that the review and needed revisions have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW.

## RECOMMENDATION

The Planning Commission deliberations included a discussion on the application of the Tree Canopy retention requirements to all lots, in order to equitably achieve tree canopy goals throughout the Town. The Town Planning Commission's suggested a modification to an existing exemption as follows:

Removal of trees or ground cover on parcels of one-half acre or less already occupied by a residence or other structure, or already devoted to some ongoing active beneficial use, where the purpose of removal is for general property or utility maintenance or landscaping, and not for new construction. When exempted, the owner is encouraged to but not required to comply with the tree canopy retention goals of the Town.

Also the Planning Commission suggested more flexibility in the administration of tree planting credits or off site fulfillment of the tree canopy goals and the even redevelopment of tree canopy throughout the Town.

In proposed Section 16.20.075 it is stated:

As an alternative to meeting a tree credit requirement entirely through planting and retention, the Town may allow a payment in lieu of planting. This option would allow owners to contribute to a fund to meet part or all of the owner's obligation through off-site planting undertaken by the Town or the Owner. Off site planting may occur on publicly owned property or privately owned property with the consent and agreement of the owner. In implementing these provisions the Town should strive to uniformly distribute trees within the Town.

The Planning Commission understands and acknowledges that the Tree Canopy goals stated in the proposal will be achieved through a combination of initiatives including the proposed voluntary Heritage Tree program or tree planting conducted by the Town.

**EXHIBIT B**  
**Amendments to CTC 16.20**

**16.20.010 - Purpose.**

The Town of Coupeville's urban forest is a thriving and sustainable mix of tree species and ages that creates a contiguous and healthy ecosystem that is valued and cared for by the Town and all of its citizens as an essential environmental, economic, and community asset. The purposes of this chapter are to: ~~promote the public health, safety, and general welfare; to preserve and enhance the Town's physical and aesthetic character by preventing the indiscriminate removal or destruction of trees and ground cover, and major movements of earth; to minimize surface water runoff and erosion, and the siltation of stormwater conveyance systems; to minimize the need for additional storm drainage and runoff quality remediation facilities; to retain forest cover for wind protection and noise abatement; and to promote building and site development practices that are consistent with the Town's natural topographic and vegetational features.~~

- A. promote the public health, safety, and general welfare;
- B. preserve and enhance the Town's physical and aesthetic character by preventing the indiscriminate removal or destruction of trees and ground cover;
- C. promote building and site development practices that are consistent with the Town's natural topographic and vegetational features;
- D. minimize the need for additional storm drainage and runoff quality remediation facilities; and
- E. promote a thriving and sustainable mix of tree species and ages that creates a contiguous and healthy ecosystem.

Pursuant to RCW 76.09.240, the Town ~~is required to~~ adopted regulations setting standards for those Class IV forest practices resulting in development and conversion of the land to a nonforest land use, which regulations are to be administered and enforced by the Town.

**16.20.020 - Permit required and Coordination of Permits.**

- A. No person shall engage in or cause any predevelopment land clearing or grading in the Town without an approved clearing and grading permit subject to the provisions set forth hereinafter. Land clearing or grading shall only occur in association with the review and approval of the underlying development permit or development proposal for an authorized future principal or conditional use or development in order to ensure conformity with the community design standards and the environmental policies of the Town, except as authorized under Section 16.20.040.C. No

~~person shall engage in or cause any land clearing or grading without first having obtained a proper permit from the Public Works Director subject to the provisions set forth hereinafter.~~

- B. Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval, site plan approval, etc.) that establishes permitted areas of clearing, grading, cutting, and filling, and tree canopy retention requirements. When establishing clearing and grading areas, consideration should be given to minimizing removal of existing trees and minimizing disturbance/compaction of native soils except as needed for building purposes.
- C. Clearing and grading activities for developments are also required to comply with all other applicable permitting requirements established in the Town Code to include but not limited to stormwater permits under CTC 13.20, work within public rights-of-way permits under CTC 12.12, road entry permits under CTC 16.24, shoreline permits under CTC 16.30, critical area permits under CTC 16.34, environmental review under CTC 16.36, etc.
- D. Any appeal from the approval or denial of an application for a clearing and grading permit shall be filed and processed pursuant to CTC 16.06.060.

#### **16.20.030 - Definitions.**

The definitions and interpretational rules set forth in Section 16.04.050 of these development regulations and in Ordinance No. 500, the stormwater management ordinance, with the following additions, shall apply to this chapter:

"Bulkhead" means a seawall or rock embankment constructed along the waterfront to protect the land behind it from erosion by waves and tidal action of the sea.

"Caliper" shall mean the diameter of any tree trunk as measured at 6" above grade. Trees larger than 12" above grade are measured at DBH (Diameter at Breast Height) or a height of four and one half feet above the ground. Trees measured on slopes shall be measured from the center point where the tree is located on the slope.

"Classes of forest practices" means the four classifications of forest practices activities defined in WAC 222-16-050. The class of forest practices is determined by considering several factors including, but not limited to, the type of activity proposed (e.g., harvesting, thinning, etc.), its scale, the affected environment, and future use of the site.

"Class IV forest" practices means a forest practice on lands platted after January 1, 1960, as

provided in Ch. 58.17 RCW, on lands that have or are being converted to another use, on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development.

"Clearing" means the destruction and removal of vegetation by manual, mechanical, or chemical methods resulting in exposed soils..

"Conversion, forest lands" or "forest lands conversion" means any Class IV general forest practices as defined by RCW 76.09.050. Also included are Class I forest practices involving timber harvesting or road construction which are not directly associated with and supportive of commercial forest product production. In general terms, "forest lands conversion" refers to the cutting and removal of trees for the purpose of converting forest land to nonforestry use.

"Developed lot" shall mean a lot or parcel of land upon which a structure(s) is located, which cannot be more intensively developed pursuant to the town zoning code, and which cannot be further subdivided pursuant to town subdivision regulations.

"Development" means any human-induced change to improved or unimproved real property including, but not limited to, the construction of buildings or other structures, placement of manufactured home/mobile, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or the subdivision of property.

"Earth" means the natural mineral and organic material forming the soil and its underlying substance. For the purposes of this chapter, earth shall include sand, gravel, and ledge rock.

"Embankment" means an artificial structure consisting of the placement of earth above the pre-existing surface.

"Erosion" means the physical removal of earth from pre-existing surfaces by natural processes involving the mechanical action of wind, water, and the force of gravity.

"Excavation" means the artificial and deliberate removal of earth from pre-existing surfaces by human agency.

~~"Filling" means the construction of an embankment or the raising of the surface in a depression by the placement of earth.~~

"Filling" means the construction of an embankment or the filling or raising of the soil, grade,

or surface on the original grade or surface of the earth.

"Grading" means alteration of the pre-existing surface by the placement or removal of earth.

"Ground cover" means living shrubs, grasses, sedges, and other vegetation with trunk or stem size smaller than four inches in diameter established on the surface.

"Grubbing" means the removal of stumps and roots of trees and shrubs.

"Forest land" as defined in the Washington State Forest Practices Act, Ch. 76.09 RCW, means all land which is capable of supporting a merchantable stand of timber and is not actively used for a use which is incompatible with timber growing.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to the growing, harvesting, or processing of timber, including, but not limited to: road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

"Heritage Tree" means a tree or stand of trees voluntarily enrolled in the Town's Heritage Tree program. Heritage trees include a tree or stand of trees that is particularly desirable because of its species, size, placement or form or considered to have unique characteristics that set it apart from other similar trees.

"Low Impact Development (LID)" shall mean a stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings.

"Native vegetation" includes native, undisturbed areas or rehabilitation of previously disturbed areas that consist of trees, plants, forest litter, and understory indigenous to the Pacific Northwest or near natives that are suitable for the Pacific Northwest climate. Invasive species, such as Himalayan Blackberry or Scotch Broom, are not native species. For the purposes of this chapter, native vegetation is defined by a tree density of no less than one tree unit per six hundred (600) square feet.

"Nonconversion" means any Class II, Class III, or Class IV—Special Forest Practice as defined by WAC 222-16-050, where land is being retained for uses consistent with timber growing. Examples include, but are not limited to, the cutting and removal of trees and the replanting for commercial forest production.

“Partially developed lot” shall mean a lot or parcel of land upon which a structure (refer to CTC 16.04.050.B for definition of structure) is located and which is of sufficient area so as to be capable of accommodating additional development pursuant to the Coupeville zoning code; or which may be subdivided in accordance with the town of Coupeville subdivision chapter.

"Siltation" means deposition of soil, sand, and gravel on the surface or in stormwater conveyance systems as a result of erosion in tributary areas and transport by runoff water.

"Tree" means an erect woody plant whose stem measures four six (6”) inches or more in diameter measured three feet above the surface on the up-slope side.

“Undeveloped lot” shall mean a platted lot or parcel of land upon which no structure (refer to CTC 16.04.050.B for definition of structure) exists.

#### **16.20.040 - Applicability and exemptions.**

- A. Clearing Permit. A clearing and grading permit shall be required for all regulated clearing activities and for all Class IV forest practices and all forest land conversions, except as exempted below:
1. Removal of trees and ground cover in emergency situations involving immediate danger to life or property, or substantial fire hazard as determined, if time permits, by a fire marshal or law enforcement officer on duty;
  2. Removal of trees or ground cover that are dead or diseased, as adjudged by an arborist, forester or other professional approved by the public works director prior to removal;
  3. Removal of trees or ground cover on parcels of one-half acre or less already occupied by a residence or other structure, or already devoted to some ongoing active beneficial use, where the purpose of removal is for general property or utility maintenance or landscaping, and not for new construction. When exempted, the owner is encouraged to but not required to comply with the tree canopy retention goals of the Town.;
  4. Public and private rights-of-way and easements being cleared in connection with town-approved engineering plans for funded and scheduled street improvements or utility installations, or for the maintenance of existing facilities;
  5. No separate permit ~~shall~~ may be required under this chapter if an application has been approved for a building permit, preliminary short plat, preliminary long plat, preliminary binding site plan, conditional use permit, or final preliminary planned unit development.

However, the requirements imposed by this chapter shall be incorporated as conditions in such approved permit, plat or development. Where such property is concerned, only areas where roads and common improvements are to be constructed can be cleared of trees and ground cover prior to final approval, and only then after preliminary approval has been granted and engineering plans for utilities and road construction have been approved by the Town.

B. Grading Permit. A clearing and grading permit shall be required for all regulated grading activities. Grading activity shall be subject to the provisions of the current edition of the ~~International~~ Building Code and the following additional requirements.

1. A permit shall be required for:

- a. Any excavating or filling in excess of one hundred (100) cubic yards, separately or in conjunction, over the duration of the permitted operation. An environmental review is also required;
- b. Any excavation or filling of sensitive areas as defined in Chapter 16.34 of this title, "critical areas" of the Coupeville Development Regulations;
- c. Any property or activity subject to the jurisdiction of the Shoreline Management Act.

2. A permit shall not be required for:

- a. Clearing and Grading incidental to work covered by a building permit;
- b. Clearing and Grading in public or private rights-of-way or easements done in connection with town-approved engineering plans for the construction of streets, drainage works, and other utilities and public works projects; or for the repair, replacement, or reconstruction of such facilities; subject, however, to the requirement that disposal of excavated material outside the project area must either occur at an approved public site, or at a private site for which the owner has obtained a valid permit from the appropriate jurisdictional entity;
- c. Limited clearing and grading conducted in association with exploratory excavations performed as a prerequisite for septic drainfield approval;
- d. Clearing and Grading incidental to the construction or repair of a bulkhead for the protection of an existing single-family residence, provided that the owner has an exemption from a shoreline management substantial development permit;
- e. Clearing and Grading done in emergencies for the protection of life and private or public property.

- C. Upon the approval of a clearing and grading permit the Town may authorize clearing and grading prior to the submittal of a development permit on an undeveloped lot in any single family residential zone, in preparation for the future development of a single family home, subject to the standard application requirements stated therein and the following conditions:
1. The project complies with the tree canopy retention requirements of Section 16.20.075;
  2. A construction access is constructed in accordance with town standards;
  3. A conceptual development plan is submitted for the future development of the property and approved by the Town;
  4. The clearing and grading complies with the standards of Section 16.20.070 and all stumps and debris are removed from the site and the site is stabilized, open areas seeded with grass that matures at 12 or less inches, and the site restored in accordance with Section 16.20.075;
  5. A watering plan is required for new plantings. The plan must provide for adequate watering of the newly installed trees for a minimum of three years; and
  6. At the discretion of the Town, a performance bond or other form of surety acceptable to the Town to guarantee survival of newly installed trees may be required.

**16.20.050 - Application requirements.**

- A. Applications for land clearing or grading permits shall be submitted to the Town on forms provided, accompanied by all supplementary information specified below or on the form, and by the fee required. Fees shall be as established in Coupeville Development Regulations Section 16.44.010 of this title as may be amended from time to time, or as established by other Town ordinance. The application shall include a map or plot plan of the affected area, to a scale determined to be adequate by the reviewing official, and including a north arrow, scale indication, contours, property lines, abutting streets and water bodies, delineation of the area to be cleared or graded, soil profiles, and designation of fill and waste disposal areas. The map or plot plan shall show the location of internal and adjacent drainage ways, wetlands, etc., that may be affected by runoff from the site. It shall be accompanied by drainage and erosion control plans prepared in accordance with the requirements of the stormwater management ordinance of the Town, and a schedule of proposed operations. If the excavated material or the product of clearing operations is to be disposed of off-site, indication of the location and route to the disposal site shall be given. For clearing projects, the application shall state the species, size, quantity, and condition of trees, and describe the ground cover to be removed. Applications shall be dated and signed by the

submitting party or authorized agent, and shall bear the name, address, and phone number of the applicant.

- B. The ~~building inspector~~ Public Works Director may require additional information deemed necessary for proper consideration of the application, or may waive specific items due to the simplicity, size, or relative safety of the proposed project. When satisfied that the application is complete, the ~~building inspector~~ Public Works Director shall review the application for compliance with the standards set forth in Section 16.20.070 of this chapter in accordance with procedures set forth in Section 16.20.060.
- C. The provisions of the Washington State Environmental Policy Act of 1971, the Shoreline Management Act, the Coupeville Development Regulations, the stormwater management ordinance, and other applicable ordinances adopted by the Town from time to time shall be observed.

#### **16.20.060 - Review procedure.**

When a completed application for a clearing or grading permit has been submitted, accompanied by payment of the appropriate fee, the ~~building inspector~~ Public Works Director shall review the application based on the standards in this chapter and either approve it, approve it with conditions, or reject it with a statement of the reasons for its rejection, and shall notify the applicant in writing of that action within the time period established by the Coupeville Development Regulations. If the ~~building inspector~~ Public Works Director finds that compliance is necessary under the provisions of the State Environmental Policy Act, additional time may be required, and additional information may be required of the applicant. If the application has been approved, or approved with conditions, the permit shall be issued and shall carry the conditions deemed necessary by the Town staff. This action shall be administrative and may be appealed to the town council in accordance with Section 16.08.060 of this title.

#### **16.20.070 - Standards for clearing and grading activities.**

All land-clearing activities shall be conditioned by the Town to ensure that the following standards have been met: Land grading and clearing associated with the regulated development of the property shall not occur until such time as the permit/authorization for development has been granted by the Town.

- A. ~~Clearing or grading will not create or contribute to landslides, soil creep, or subsidence, or hazards associated with strong ground motion and soil liquefaction~~ All grading and clearing activities shall be conducted so as to minimize potential adverse effects of these activities on forested lands, surface water quality and quantity, groundwater recharge, fish and wildlife habitat, adjacent properties, and downstream drainage channels. The applicant shall attempt to prevent impacts and minimize the clearing of naturally occurring vegetation, retain existing soils, and maintain the existing natural hydrological functions of the site;
- B. Clearing or grading will not create or significantly contribute to flooding, erosion, siltation, or other forms of pollution in a watercourse;
- C. Clearing and grading operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with the approved build-out schedule;
- D. No clearing or grading shall be permitted within a previously-established vegetated buffer area;
- E. Clearing and grading operations shall consistent with the latest version of the Stormwater Management Manual for Western Washington. LID practices and principals are the preferred method of surface water management.
- F. Slash shall be ~~burned or~~ removed from the cleared site within ~~six~~ one months of the completion of the operation. Slash may be ground/chipped onsite and dispersed on site as compost within one month as an alternative;
- G. Clearing and grading operations shall be performed in accordance with all applicable laws, rules, and regulations pertaining to air and water pollution, noise control, and wildlife habitat protection;
- H. Clearing and grading shall not be detrimental to the health and appearance of vegetation outside but adjacent to the area designated for such operations in the approved plan;
- I. Clearing and grading will be undertaken in a manner which, in the opinion of the public works director, will preserve and enhance the aesthetic character of the Town.
- J. Prior to beginning land disturbing activities, including clearing and grading, all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area shall be clearly marked, both in the field and on the plans, to prevent damage and offsite impacts. (See section on Tree protection for detailed requirements.)
- K. Construction vehicle access shall be, whenever feasible, limited to one route. A temporary access road shall be provided at all sites. Access surfaces shall be stabilized to minimize the tracking of sediment onto adjacent roads by utilizing quarry spalls, crushed rock or other equivalent BMPs.

Other measures may be required at the discretion of the Public Works Director in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains. All approach roads shall be kept clean. Wheel wash or tire baths shall be located on site if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads. Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area. Street washing will be allowed only after sediment is removed in this manner. If sediment is tracked off site, public roads shall be cleaned thoroughly at the end of each day, or more frequently during wet weather. Street wash wastewater shall be controlled by pumping back on-site or otherwise be prevented from discharging into systems tributary to state surface waters.

- L. All exposed soil shall be stabilized by application of suitable BMPs and soil stabilization measures, including but not limited to sod or other vegetation, plastic covering, mulching, or application of base course(s) on areas to be paved. Soil stabilization measures selected should be appropriate for the time of year, site conditions, estimated duration of use, and potential water quality impacts that stabilization agents may have on downstream waters or ground water. Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast. All BMPs shall be selected, designed, and maintained according to the approved manual by the Public Works Director. From October 1 through April 30, no unworked soils shall remain exposed for more than two days. From May 1 through September 30, no unworked soil shall remain exposed for more than seven days. Soil stockpiles must be stabilized from erosion, protected with sediment trapping measures, and where possible, be located away from storm drain inlets, waterways and drainage channels. Linear construction activities, including right-of-way and easement clearing, roadway development, pipelines, and trenching for utilities, shall be conducted to meet the soil stabilization requirement.

#### **16.20.075 – Tree Canopy Requirements.**

- A. The following tree canopy standards apply to all public/quasi public, commercial, and residential projects at the time of the initial development on an undeveloped lot or when the project proposes to increase existing building footprint by more than 50 percent. The tree canopy standard pertains to all lots and is determined by the lot size. The goal is to retain or develop a 30% canopy coverage on the lot as determined by the tree credit requirements.

- B. For residential zoning districts, the following is established as the minimum tree credit standard for new or replacement residential units.
1. A tree credit standard is one credit per 200 sq. ft. of lot area after the first 1500 sq. ft. of lot area is deducted.
  2. The exception for the first 1,500 sq. ft. minimizes the burden on small lots where it would be considerably more difficult to meet these guidelines.
- C. For projects within Multi-family, Commercial, and Public Quasi Public zones, the tree credit standard for tree planting or retention is the same as residential zones except that the area of the required parking lot will be excluded instead of 1500 sq. ft. of the lot size
- D. As an alternative to meeting a tree credit requirement entirely through planting and retention, the Town may allow a payment in lieu of planting. This option would allow owners to contribute to a fund to meet part or all of the owner's obligation through off-site planting undertaken by the Town.
- E. Replacement deciduous and broad-leaf evergreen trees shall have a minimum 2" caliper. at planting. Replacement coniferous evergreen trees shall have a minimum height of 6' at planting. Trees shall be planted in accordance with American National Standard (ANSI A) 300 (Part 6)-2005 Transplanting standards. Trees must have canopy uniformity and demonstrate good trunk and branch structure.
- F. These standards require applicants to meet the specified tree credit number per lot area either by retention or planting or both. The tree credit allowed per tree retained or planted is based on the diameter of the tree, with additional credit for larger trees, and heritage trees.
- G. The tree credits are based on the goal of reaching or retaining a canopy cover of 30% in 15 years after development, assuming that each retained tree is, at a minimum, a medium sized tree.
- H. Tree credits are established in Table 1. Small, small/medium, medium/large, and large trees are categorized in Attachment 1. Attachment 1 is illustrative and an applicant may select alternative tree species upon presentation of information on mature height and spread.

**Table 1 - Tree Credit Table**

<u>Tree Provided</u>	<u>Tree Credits</u>
<u>New small species tree</u>	<u>0.25</u>
<u>New small/medium species tree</u>	<u>0.5</u>
<u>New medium/large species tree</u>	<u>1</u>
<u>New large species tree</u>	<u>2</u>
<u>Preserved tree 6-9"*</u>	<u>4</u>
<u>Preserved tree 10-12"*</u>	<u>5</u>
<u>Preserved tree 12-15"*</u>	<u>6</u>
<u>Preserved tree 16-18"*</u>	<u>7</u>
<u>Preserved tree 19-21"*</u>	<u>8</u>
<u>Preserved tree 22-24"*</u>	<u>9</u>
<u>Preserved tree 25-28"*</u>	<u>10</u>
<u>Preserved tree 29-32"*</u>	<u>11</u>
<u>Preserved tree 33-36"*</u>	<u>12</u>
<u>Preserved tree 37" and greater*</u>	<u>13</u>

\*Dimension refers to the caliper of the tree. See definition of caliper.

- I. The tree credit system allows flexibility about decisions to preserve trees to ensure that trees are of an appropriate size and location considering the site and the design of project. The tree credit program incentivizes retention of native tree and heritage trees. A 25% bonus is given for planting evergreen or native tree species. A 50% bonus is given for the voluntary retention of trees enrolled in the Town's Heritage Tree program.

### Example Case

Lot size = 5000 sq. ft.

Minimum Tree Credit =  $(5000-1500)/200 = 17.5$

Sample Retention/Planting Plan

Preserve one 23" tree = 9 credits

Plant two native large trees\* = 5 credits

Plant three medium /large trees= 3 credits

Plant one small/medium tree = .5 credits

\*A 25% bonus is given for evergreen or native trees.\*

- J. As an alternative to meeting a tree credit requirement entirely through planting and retention, the Town may allow a payment in lieu of planting. This option would allow owners to contribute to a fund to meet part or their entire obligation through off-site planting undertaken by the Town.
- K. No trees 6" in diameter or greater may be removed on undeveloped lots unless they are found to be hazardous or where tree removal is proposed as part of a development, except as exempted under 16.20.040.A.3.
- L. Replacement deciduous and broad-leaf evergreen trees shall have a minimum 2" caliper at planting. Replacement coniferous evergreen trees shall have a minimum height of 6' at planting. A watering plan is required for new plantings. The plan must provide for adequate watering of the newly installed trees for a minimum of three years; and
- M. At the discretion of the Town a performance bond or other form of surety acceptable to the Town to guarantee survival of newly installed trees may be required.

### 16.20.080 – Tree Protection Requirements.

- A. All trees and tree stands proposed for retention and additional native vegetation shall be protected before and during site development and construction through adherence to the following requirements:
- B. A tree protection area shall be designed to protect each tree or tree stand during site development and construction. The tree protection areas shall conform to the approved vegetation management plan.

- C. Tree protection areas may vary widely in shape, but must extend a minimum of three feet beyond the existing tree canopy area along the outer edge of the tree stand, unless otherwise approved by the planning director.
- D. Tree protection areas shall be added and clearly labeled on all applicable site development, plat, and construction drawings, submitted to the planning director.
- E. No clearing, grading, filling, or other development activities shall occur within the tree protection area, except where approved in advance by the planning director and noted in the vegetation management plan.
- F. No vehicles, construction materials, fuel, or other materials shall be placed in tree protection areas. Movement of any vehicles within tree protection areas shall be prohibited.
- G. No nails, rope, cable, signs, or fencing shall be attached to any tree proposed for retention.
- H. The grade level around the tree may not be lowered within the greater of: (1) the area defined by the drip line of the tree at time of development; or (2) an area around the tree equal to 1 foot in diameter for each 1 inch of tree diameter as measured 1 foot above pre-existing grade at time of development, unless a registered landscape architect, certified arborist or certified nursery professional determines that the long-term health of the tree will not be significantly harmed.
- I. Trenching and other activities within or adjacent to tree conservation areas that may cut or damage the roots of trees proposed for retention shall be prohibited unless recommended by a professional forester, certified arborist or licensed landscape architect, and approved by the Town of Coupeville.
- J. The Town of Coupeville may approve the use of alternate tree protection techniques if the trees will be protected to an equal or greater degree than provided by this Chapter.

#### **16.20.090 - Permit validity.**

Permits shall remain valid for a period of twelve (12) months from the date of issue. Upon showing of good cause, a permit may be extended for six additional months. Clearing or grading plans shall not be altered or amended without Town approval, and permits may be suspended or revoked by the Town because of incorrect information supplied or because of any violation of the provisions of this chapter.

#### **16.20.100 - Performance bond.**

The Town may require, as a condition to the granting of a permit, that the applicant furnish a

performance bond to the Town to secure the applicant's obligation, after the approved land clearing or grading operations have been accomplished, to complete required restorative measures, and meet the conditions of the permit within the time allotted. The bond shall be in an amount equal to the estimated cost of such restoration and with surety and conditions satisfactory to the Town.

#### **16.20.110 - Civil remedies.**

The violation of or failure to comply with or perform any duty within the provisions of this chapter is declared to be unlawful and a public nuisance. The Town may seek legal or equitable relief to enjoin any act or practice which constitutes or will constitute a violation of any regulation herein adopted. The violator shall be responsible for and pay to the Town all costs that accrue to the Town as a result of the violation including but not limited to administrative costs, fees and expenses of consultants and reasonable attorney's fees and court costs. Furthermore no land use permits or approvals shall be issued by the Town concerning the property involving the violation of this chapter until the requirements of this chapter shall have been satisfied in full, including the payment of all fees and costs to be paid to the Town as provided herein.

#### **16.20.120 - Criminal penalties.**

A violation of any of the provisions of this chapter shall be a misdemeanor and any person found guilty thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) per offense, and up to one thousand dollars (\$1,000.00) per day for continued offenses accruing on days subsequent to receipt of a stop work order from the Town. Each day such violation continues shall be considered a separate offense. Penalties recovered shall be paid to the Town's general fund.

#### **16.20.130 - Code violations and enforcement.**

The remedies provided herein for violation of or failure to comply with the provisions of this chapter, whether civil or criminal, are cumulative and in addition to any other remedy provided by law.

#### **16.20.140 - Redress and restoration.**

- A. Any person who violates any provision of this chapter, or of a permit issued pursuant thereto, shall be liable for all damages to public property arising from such violation, and for the cost of restoring the affected area to its condition prior to such violation.

- B. Restoration shall include the replacement of all improperly removed ground cover with species similar to those which were removed, or other approved species, such that the biological and habitat values will be replaced.
- C. For each area which was improperly cleared, replacement ground cover plantings of equal size, quality, and species, and trees as large as practicable shall be planted.
- D. Restoration shall include installation and maintenance of interim and emergency erosion control measures until the restored ground cover and vegetation reaches sufficient maturation to function in compliance with the performance standards identified in this chapter.
- E. For any parcel on which ground-stabilizing vegetation is improperly removed, and subject to the penalties of this chapter, the Town shall stop work on any existing permits and halt the issuance of any or all future permits or approvals until the property is fully restored in compliance with this chapter and all penalties are paid.

**16.20.150 - Chapter not intended toward a particular group or class.**

- A. It is the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.
- B. No provision or term used in this chapter is intended to impose any duty whatsoever upon the Town or any of its officers, employees or agents for whom the implementation and enforcement of this chapter is discretionary and not mandatory.
- C. Nothing contained in this chapter is intended or shall be construed to create or form the basis of any liability on the part of the Town or its officers, employees or agents for any injury or damage;
  - 1. Resulting from the failure of any owner, operator, manager or other person in charge of premises to comply with the provisions of this chapter; or
  - 2. By reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter; or
  - 3. By reason of any action or inaction on the part of the Town related in any manner to the enforcement of this chapter by its officers, employees, or agents.

**16.20.160 - Conflicting sections or provisions.**

In the event that there is a conflict or inconsistency between the sections and provisions set forth

in this chapter and those set forth elsewhere in the Coupeville Development Regulations or other Town ordinances, the sections and provisions of this chapter govern and supersede those set forth elsewhere.

**Attachment 1**

<u><b>Group</b></u>	<u><b>Botanical Name</b></u>	<u><b>Common Name</b></u>	<u><b>Height</b></u>	<u><b>Spread</b></u>	<u><b>Nonnative</b></u>	<u><b>Native</b></u>
<u><b>Large</b></u>						
	<u><i>Psudotsuga menziesii</i></u>	<u><i>Douglas Fir</i></u>	<u>150</u>	<u>35</u>		<u>x</u>
	<u><i>Thuja plicata</i></u>	<u><i>Western Red Cedar</i></u>	<u>125</u>	<u>40</u>		<u>x</u>
	<u><i>Abies grandis</i></u>	<u><i>Grand Fir</i></u>	<u>100</u>	<u>35</u>		<u>x</u>
	<u><i>Acer macrophyllum</i></u>	<u><i>Big Leaf Maple</i></u>	<u>100</u>	<u>80</u>		<u>x</u>
	<u><i>Picea sitchensis</i></u>	<u><i>Sitka Spruce</i></u>	<u>100</u>	<u>30</u>		<u>x</u>
	<u><i>Pinus monticola</i></u>	<u><i>Western White Pine</i></u>	<u>100</u>	<u>35</u>		<u>x</u>
	<u><i>Pinus contorta</i></u>	<u><i>Shore Pine</i></u>	<u>90</u>	<u>30</u>		<u>x</u>
	<u><i>Tsuga heterophylla</i></u>	<u><i>Western hemlock</i></u>	<u>90</u>	<u>30</u>		<u>x</u>
	<u><i>Alnus rubra</i></u>	<u><i>Red Alder</i></u>	<u>70</u>	<u>35</u>		<u>x</u>
	<u><i>Fraxinus latifolia</i></u>	<u><i>Oregon Ash</i></u>	<u>60</u>	<u>35</u>		<u>x</u>
	<u><i>Acer freemanii</i> 'Autumn Blaze</u>	<u><i>Autumn Blaze Maple</i></u>	<u>50</u>	<u>40</u>	<u>x</u>	
	<u><i>Acer platanoides</i> 'Emerald Queen</u>	<u><i>Emerald Queen</i></u>	<u>50</u>	<u>40</u>	<u>x</u>	
	<u><i>Acer saccharum</i> 'Bonfire</u>	<u><i>Bonfire Sugar Maple</i></u>	<u>50</u>	<u>40</u>	<u>x</u>	
	<u><i>Aesculus flava</i></u>	<u><i>Yellow Buckeye</i></u>	<u>70</u>	<u>40</u>	<u>x</u>	
	<u><i>Cercidiphyllum japonicum</i></u>	<u><i>Katsura Tree</i></u>	<u>40</u>	<u>40</u>	<u>x</u>	
<u><b>Medium / Large</b></u>	<u><b>Botanical Name</b></u>	<u><b>Common Name</b></u>	<u><b>Height</b></u>	<u><b>Spread</b></u>	<u><b>Nonnative</b></u>	<u><b>Native</b></u>
	<u><i>Betula papyrifera</i></u>	<u><i>Paper Birch</i></u>	<u>60</u>	<u>35</u>		<u>x</u>
	<u><i>Populus tremuloides</i></u>	<u><i>Quaking Aspen</i></u>	<u>50</u>	<u>30</u>		<u>x</u>
	<u><i>Arbutus menziesii</i></u>	<u><i>Pacific madrone</i></u>	<u>40</u>	<u>30</u>		<u>x</u>
	<u><i>Salix lasiandra</i></u>	<u><i>Pacific Willow</i></u>	<u>40</u>	<u>30</u>		<u>x</u>

<u>Group</u>	<u>Botanical Name</u>	<u>Common Name</u>	<u>Height</u>	<u>Spread</u>	<u>Nonnative</u>	<u>Native</u>
	<i>Pinus nigra</i>	<i>Austrian Pine</i>	45	25	x	
	<i>Pinus pinea</i>	<i>Italian Stone Pine</i>	40	30	x	
<b>Medium/ Large</b>	<i>Populus tremuloides</i>	<i>Quaking Aspen</i>	50	30	x	
	<i>Fagus sylvatica 'Rohanii'</i>	<i>Purple Oak Leaf</i>	50	30	x	
<b>Medium/ Small</b>						
	<i>Alnus sinuata</i>	<i>Sitka Alder</i>	40	25		x
	<i>Taxus brevifolia</i>	<i>Pacific Yew</i>	40	25		x
	<i>Crataegus suksdorfii</i>	<i>Suksdorf's Hawthorn</i>	30	25		x
	<i>Acer glabrum v douglasii</i>	<i>Rocky Mountain Maple</i>	30	25		x
	<i>Cornus nutallii</i>	<i>Pacific Dogwood</i>	30	25		x
	<i>Salix sitchensis</i>	<i>Sitka willow</i>	25	20		x
	<i>Acer rubrum 'Bowhall'</i>	<i>Bowhall Maple</i>	40	15	x	
	<i>Acer rubrum 'Scarsen'</i>	<i>Scarlet Sentinel</i>	40	20	x	
	<i>Cornus controversa 'June Snow'</i>	<i>Giant Dogwood</i>	40	30	x	
	<i>Davidia involucrata</i>	<i>Dove Tree</i>	40	30	x	
	<i>Libocedrus decurrens</i>	<i>Incense Cedar</i>	35	20	x	
	<i>Robinia x ambigua</i>	<i>Pink Idaho Locus</i>	35	25	x	
<b>Small</b>	<u>Botanical Name</u>	<u>Common Name</u>	<u>Height</u>	<u>Spread</u>	<u>Nonnative</u>	<u>Native</u>
	<i>Malus fusca</i>	<i>Pacific Crabapple</i>	40	25		x
	<i>Crataegus douglasii</i>	<i>Black Hawthorne</i>	30	25		x
	<i>Rhamnus purshiana</i>	<i>Cascara</i>	30	20		x
	<i>Amelanchier alnifolia</i>	<i>Saskatoon Service</i>	20	15		x

<u>Group</u>	<u>Botanical Name</u>	<u>Common Name</u>	<u>Height</u>	<u>Spread</u>	<u>Nonnative</u>	<u>Native</u>
	<u>Acer griseum</u>	<u>Paperbark Maple</u>	<u>25</u>	<u>20</u>	<u>x</u>	
	<u>Cornus kousa 'Chinensis</u>	<u>Kousa Dogwood</u>	<u>20</u>	<u>20</u>	<u>x</u>	
	<u>Acer palmatum</u>	<u>Japanese Maple</u>	<u>20</u>	<u>24</u>	<u>x</u>	