

TOWN OF COUPEVILLE  
Coupeville, Washington

**ORDINANCE NO. 792**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF  
COUPEVILLE, WASHINGTON AMENDING THE TOWN'S  
DEVELOPMENT REGULATIONS BY AMENDING VARIOUS  
SECTIONS OF TITLE 16 OF THE COUPEVILLE TOWN CODE  
RELATING TO TREE CANOPY REGULATIONS

**WHEREAS**, on July 27, 2010, the Coupeville Town Council adopted urgency Ordinance No. 683 to prevent the haphazard removal and destruction of trees and groundcover on an interim basis; and

**WHEREAS**, on January 11, 2011, the Town of Coupeville adopted Ordinance No. 688, creating permanent standards for the protection and preservation of trees with the purpose of establishing a 30 percent canopy goal; and

**WHEREAS**, concerns about the difficulty of planting all required trees onsite may be addressed and improved by altering the methodology for calculating replacements, and providing options for when they cannot be reasonably accommodated on site; and

**WHEREAS**, Town Staff recognizes that there is limited flexibility for deviation from planting and retention requirements under Ordinance No. 688, particularly for smaller sites without existing tree canopy. Over the years, Staff has indicated that current regulations may impede development of such sites and has recommended the examination of the associated clearing and grading policies on multiple dates before the Planning Commission, including February 1, 2022, April 4, 2023, November 7, 2023 and February 6, 2024; and

**WHEREAS**, the International Society of Arboriculture Guidelines for Developing and Evaluating Tree Ordinances recommend jurisdictions regulate tree canopy coverage rather than individual trees; and

**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**, tree canopy within landscaping mitigates impacts associated with residential development consistent with planned urban densities, protects the character of existing neighborhoods, provides protection of understory plants, filters sunlight, promotes community aesthetics, creates walkable neighborhoods, and sense of place; and

**WHEREAS**, the Coupeville Town Planning Commission ("Planning Commission") held informational workshops or hearings on this topic on February 1, 2022, April 4, 2023, November 7, 2023 and December 5, 2023 to receive public testimony and input that pertained to the modification of Town regulations and provide direction to Staff; and

**WHEREAS**, the Planning Commission held a public hearing on February 6, 2024 to receive public testimony concerning the code amendments contained in this ordinance; and

**WHEREAS**, following the public hearing, the Town Council deliberated on the code amendments contained in this ordinance;

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF COUPEVILLE,  
WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 16.20 (Clearing & Grading) is amended as shown in Exhibit A.

**SECTION 2.** Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or circumstances be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulations, such a decision shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other persons or circumstances.

**SECTION 3.** Effective Date. This Ordinance shall be published in summary in the official newspaper of the Town, and shall take effect and be in full force on the 12<sup>th</sup> day of March, 2024.


ADOPTED by the Town Council and APPROVED by the Mayor on the 12<sup>th</sup> day of March, 2024.

TOWN OF COUPEVILLE

By: 

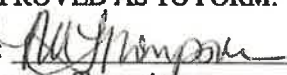
Molly Hughes, Mayor

ATTEST:

By: 

Chris Jolly, Deputy Clerk

APPROVED AS TO FORM:

By: 

Nikki Thompson, Town Attorney

Date of Publication: 3/16/2024.

Exhibit A: Enclosed

## Chapter 16.20 CLEARING AND GRADING<sup>1</sup>

### 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:

- 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.
- F. Protect natural habitat and help mitigate impacts associated with climate change.

Pursuant to RCW 76.09.240, the Town 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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

### 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 Subsection 16.20.040.C.
  - 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, 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.
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- <sup>1</sup>Editor's Note(s) — Ord. No. 688, § 2(Exh. B), adopted Jan. 11, 2011, amended ch. 16.20, §§ 16.20.010—16.20.150 in its entirety as set out herein. The former ch. 16.20, §§ 16.20.010—16.20.150, pertained to similar subject matter. See also the Code Comparative Table and Disposition List.

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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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

### **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:

"Best Management Practice (BMP)" means the schedule of activities, prohibition of practices, maintenance procedures, and structural and/or managerial practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts.

"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 six inches above grade. Trees larger than twelve (12) inches 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.

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"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 filling or raising of the soil, grade, or surface on the original grade or surface of the earth.

"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.

"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.

**"Hazard Tree" means a tree that is a threat to life, property, or public safety**

"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.

"Minimum percent coverage" means the retention and/or planting of trees so that, at maturity of 20 years, a specified minimum tree canopy/tree cover will be provided over usable area of the property, not dedicated to structures or required on-site improvements (e.g. septic system, access easements, utilities, etc.)

"Native vegetation" includes native, undisturbed areas or rehabilitation of previously disturbed areas that consist of trees, plants, forest litter, and understory indigenous to the coastal region Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Invasive species, such as Himalayan Blackberry or Scotch Broom, are not native species.

"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. "Qualified Professional Arborist" means an individual with relevant education and training in arboriculture or urban forestry having two or more of the following credentials:

- International Society of Arboriculture (ISA) Certified Arborist;
- Tree Risk Assessor Qualification (TRAQ) as established by the ISA (or equivalent);
- American Society of Consulting Arborists (ASCA) registered Consulting Arborist;

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- Society of American Foresters (SAF) Certified Forester for Forest Management Plans;
  - Board Certified Master Arborist as established by the ISA.

"Significant tree" means a tree with a caliper of at least 10 inches except dogwoods and vine maples are significant trees if they have a caliper of at least seven inches. For multiple stem trees such as vine maples, the caliper of the individual stems are added together to determine if a tree meets the minimum caliper for a significant tree

"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 six inches or more in diameter measured three feet above the surface on the up-slope side.

"Tree canopy/tree cover" means the aggregate area of coverage by plant material exceeding five feet in height and measured at the drip line.

"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.

"Wildlife Snag" means the remaining trunk of a tree that is intentionally reduced in height and usually stripped of its branches with the intent of providing habitat.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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 hazard 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 hazard trees or ground cover that are dead or diseased, as adjudged by a qualified professional arborist, certified forester, or other professional approved by the public works director prior to removal;
  3. Removal of trees or ground cover on parcels already primarily 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, is exempted from a Clearing Permit, but does require a Certificate of Appropriateness as outlined under CTC 16.13.110.B. When exempted, the owner is encouraged to, but not required to, comply with the tree canopy retention goals of the Town outlined under CTC 16.20.075. This exemption does not apply, however, to the removal of any identified Heritage tree
  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 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 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

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- 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.
6. Pruning and maintenance of trees on private property. Pruning shall conform to the most recent version of the ANSI A300 Pruning Standards. Activities that result in the removal of more than 25% of the live crown is not considered an acceptable pruning practice<sup>2</sup>.
- 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 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 drain field 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;

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<sup>2</sup> ANSI A300 Pruning Standards

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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 twelve (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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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, and all other critical areas and their buffers, 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 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 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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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 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 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

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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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

### **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. All grading and clearing activities shall be conducted so as to follow mitigation sequencing for potential impacts to all critical areas, as outlined in WAC 197-11-768, and to overall 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 removed from the cleared site within one month 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 and critical 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 groundwater. 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.
- M. Non-native vegetation that has become part of the rural landscape and character such as orchards, hedgerows and windbreaks should be retained. If removal is required, it shall be evaluated as part of a Certificate of Appropriateness.
- N. Pursuant to WAC 365-169-830, no net loss of ecological function or value will be lost as a result of any clearing and grading activities.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

**16.20.075 Tree canopy requirements.**

- A. The following tree canopy standards apply to all commercial and residential projects prior to finalizing any 'Building' permit on any undeveloped lot or when the project proposes to increase existing development by more than fifty (50) percent on any partially developed lot. The tree canopy requirements pertain to all lots and is determined by the zoning district of the subject parcel. All submitted site plans and preliminary plats shall document the amount of tree canopy coverage preserved or planted, demonstrating how minimum percent coverage will be facilitated. As applicable, a landscaping plan shall be provided and written by a qualified professional arborist in conformance with the requirements of the CTC 16.12.060, and can also be used to document compliance with tree canopy requirements.

- B. Minimum tree canopy/tree cover requirements shall be as follows:

Zoning District	Minimum Percent Coverage
Rural Reserve (RR); Low Density Residential (LDR); Medium Density Residential (RM-9600)	30%
Historic Commercial Center (HCC); Town Commercial (TC);	20%
General Commercial (GC); High-Density Residential (HDR)	15%
Civic; Parks & Open Space	None

- C. When due to the presence of on-site constraints, such as utility infrastructure, Wildland Urban Interface (WUI) standards or required easements, as an alternative to meeting a tree canopy requirement entirely

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through planting and retention, the Town may allow a payment in lieu of planting at the discretion of the public works director. 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 within the public right-of-way, parks, open-space, or public facilities. The program is intended to be utilized by applicants only in last case scenarios, where it is proven by the applicant that no other feasible option can be pursued.

- D. Replacement deciduous and broad-leaf evergreen trees shall have a minimum two-inch caliper at planting. Replacement coniferous evergreen trees shall have a minimum height of six feet at planting. Trees shall be planted in accordance with American National Standard (ANSI A) 300 and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture. Trees must have canopy uniformity and demonstrate good trunk and branch structure.
- E. These standards require applicants to meet the specified tree canopy per lot area by retention. If retention is deemed infeasible in meeting the canopy requirements, the applicant may meet the specified criteria by a combination of retention and planting.
- G. Tree canopy is based on the goal of reaching or retaining a minimum percent coverage in twenty (20) years after development.
- H. 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.
- I. As feasible, the majority of trees planted or retained for the purpose of meeting minimum percent coverage shall consist of native species, as conveyed in Attachment 1.
- J. Regardless of zoning, parking areas with ten (10) or more parking stalls shall provide shade trees in landscaped areas and along pedestrian pathways. Parking areas shall be designed to provide a tree canopy coverage of fifty percent (50%) over all paved areas within fifteen (15) years of planting. If deemed necessary, the Town may require the usage of best management practices designed to minimize conflict between tree plantings and impervious areas, including but not limited to, appropriate tree species selection, root barrier systems, and adequately sized tree wells.
- K. For the purpose of meeting minimum percent coverage, significant trees retained on-site or native trees (as conveyed within Attachment 1) shall be valued at 125% of their provided canopy. While the removal of heritage trees would be prohibited, they would be valued at 150% of their provided canopy.
- M. Trees not listed within Attachment 1 may be utilized in submitted landscaping plans at the discretion of the Public Works Director or Planning Director and have a verifiable estimated 20-year canopy coverage provided as part of the submitted plan.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

### **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.

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- 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 one foot in diameter for each one inch of tree diameter as measured one 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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **16.20.100 Performance bond and Management Plan.**

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, guarantee survival of newly installed trees, 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.

In order to guarantee the survival of newly installed trees, the Town may also require, as a condition to the granting of a permit, that the applicant submit a management plan written by a qualified professional arborist that outlines clear monitoring steps and benchmarks throughout the life of the plantings to ensure retention of the minimum percent canopy required.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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

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limited to, administrative costs, fees and expenses of consultants and reasonable attorney's fees and court costs. Furthermore, no building permit, 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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

#### **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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

**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.

(Ord. No. 688, § 2(Exh. B), 1-11-2011)

**Attachment 1**

Group	Botanical Name	Common Name	Height	Spread	Native	Est. 20 Year Canopy <sup>3</sup>
<b>Large</b>						
	<i>Psudotsuga menziesii</i>	Douglas Fir	150	35	x	480
	<i>Thuja plicata</i>	Western Red Cedar	125	40	x	480
	<i>Abies grandis</i>	Grand Fir	100	35	x	240
	<i>Acer macrophyllum</i>	Big Leaf Maple	100	80	x	480
	<i>Picea sitchensis</i>	Sitka Spruce	100	30	x	240
	<i>Pinus monticola</i>	Western White Pine	100	35	x	-
	<i>Pinus contorta</i>	Shore Pine	90	30	x	360
	<i>Tsuga heterophylla</i>	Western hemlock	90	30	x	240
	<i>Alnus rubra</i>	Red Alder	70	35	x	
	<i>Quercus garryana</i>	Garry Oak	65	<del>45</del>	<del>x</del>	120
	<i>Fraxinus latifolia</i>	Oregon Ash	<del>60</del>	<del>35</del>	<del>*</del>	<del>450</del>
	<i>Acer freemanii</i> "Autumn Blaze"	Autumn Blaze Maple	50	40		-

<sup>3</sup> Snohomish County Planning and Development Service; Tree Canopy Coverage List; Revised 04/21/2017

	Acer platanoides "Emerald Queen"	Emerald Queen	50	40		-
	Acer saccharum "Bonfire"	Bonfire Sugar Maple	50	40		-
	Aesculus flava	Yellow Buckeye	70	40		-
	Cercidiphyllum japonicum	Katsura Tree	40	40		175
<b>Medium /Large</b>						
	Betula papyrifera	Paper Birch	60	35	x	480
	Populus tremuloides	Quaking Aspen	50	30	x	-
	Arbutus menziesii	Pacific madrone	40	30	x	240
	Salix lasiandra	Pacific Willow	40	30	x	-
	Pinus nigra	Austrian Pine	45	25		-
	Pinus pinea	Italian Stone Pine	40	30		-
	Populus tremuloides	Quaking Aspen	50	30		480
	Fagus sylvatica "Rohanii"	Purple Oak Leaf	50	30		-
<b>Medium /Small</b>						
	Alnus sinuata	Sitka Alder	40	25	x	-
	Taxus brevifolia	Pacific Yew	40	25	x	-
	Crataegus suksdorfii	Suksdorf's Hawthorn	30	25	x	
	Acer glabrum v douglasii	Rocky Mountain Maple	30	25	x	-
	Cornus nutallii	Pacific Dogwood	30	25	x	240
	Salix sitchensis	Sitka willow	25	20	x	-
	Acer rubrum "Bowhall"	Bowhall Maple	40	15		129
	Acer rubrum "Scarsen"	Scarlet Sentinel	40	20		-
	Cornus controversa "June Snow"	Giant Dogwood	40	30		
	Davidia involucrata	Dove Tree	40	30		
	Libocedrus decurrens	Incense Cedar	35	20		175
	Robinia x ambigua	Pink Idaho Locus	35	25		-
<b>Small</b>						
	Malus fusca	Pacific Crabapple	40	25	x	-
	Crataegus douglasii	Black Hawthorne	30	25	x	-
	Rhamnus purshiana	Cascara	30	20	x	-
	Amelanchier alnifolia	Saskatoon Service	20	15	x	175
	Acer griseum	Paperbark Maple	25	20		-
	Cornus kousa "Chinensis"	Kousa Dogwood	20	20		-
	Acer palmatum	Japanese Maple	20	24		-

(Ord. No. 688, § 2(Exh. B, Att. 1), 1-11-2011)