

ORDINANCE NO. 2741

**AN ORDINANCE ADOPTING INTERIM ZONING AND SUBDIVISION  
CONTROLS FOR TREE PRESERVATION.**

**WHEREAS**, the next general rewrite of the City Zoning and Subdivision Ordinances is scheduled for 2007.

**WHEREAS**, RCW 35A.63.220 authorizes *inter alia* interim zoning controls while new zoning language is being considered for adoption.

**WHEREAS**, the City Council finds that some additional basic zoning and subdivision controls are necessary to avoid inappropriately mitigated development moving forward prior to new zoning and subdivision ordinance language being adopted.

**WHEREAS**, the potential adverse impacts on the public health, property, safety and welfare of the City, as discussed above, justify such interim zoning controls.

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ANACORTES  
DOES ORDAIN AS FOLLOWS:**

**Section 1. Attachments.** The amendments to the City Zoning and Subdivision Ordinances set forth in Attachments A, B, and C to this Ordinance are hereby adopted.

**Section 2. Public Hearing Required.** As required by RCW 35A.63.220 and RCW 36.70A.390, within 60 days of the passage of this ordinance the City Council will hold a public hearing on these interim controls and consider Administration's progress report on developing new code language. The City Clerk is directed to provide notice of such public hearing as required by law.

**Section 2. Emergency Declared – Immediate Effect.** For the reasons set forth above, and to promote the objectives stated herein, the City Council finds that a public emergency exists, necessitating that this ordinance take effect immediately upon its passage by a majority plus one of the whole membership of the Council in order to protect the public health, safety, property and general welfare.

**Section 4. Severability – Construction.**

- (1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Anacortes Municipal Code, this ordinance is deemed to control.

**PASSED AND APPROVED** this \_\_\_\_\_ day of July, 2006.

**CITY OF ANACORTES:**

BY: \_\_\_\_\_  
H. Dean Maxwell, Mayor

**ATTEST:**

\_\_\_\_\_  
Wanda Phillips, City Clerk Treasurer

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Ian S. Munce, City Attorney

**17.54.060 Land clearing.**

A. Short Title. This section shall be known and may be cited as the "land clearing ordinance" of the city of Anacortes.

B. No subdivision of land shall be approved within five years of issuance of a land clearing permit.

C. Purposes and Permit Criteria. These regulations are adopted for the following purposes and the zoning administrator shall consider such purposes as criteria or standards for the issuance of land clearing permits under subsection D of this section:

1. To promote the public health, safety, and general welfare of the citizens of Anacortes;
2. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and groundcover on undeveloped and partially developed property;
3. To promote building and site planning practices that are consistent with the city's natural topographical and vegetational features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and groundcover;
4. To minimize surface water and groundwater runoff and diversion, to reduce siltation of lakes and streams and to deter erosion due to removal of trees and groundcover and reduce the risk of slides;
5. To minimize the need for additional storm drainage facilities;
6. To retain clusters of trees for the abatement of noise and wind protection and compliance with City Tree Preservation and Landscaping Ordinances.
7. To insure prompt development, restoration and replanting and effective erosion control of property after land clearing,
8. To implement the goals and objectives of the Washington State Environmental Policy Act;
9. It is not the intent or purpose of this section to prevent the reasonable development of land in Anacortes in accordance with the city's comprehensive plan, and zoning and subdivision ordinances
10. (a) A Land clearing Permit is required to cut down trees prior to development.  
(b) A Tree Conservation Permit is required to substantially thin an endangered forest area prior to development; this includes a tree conservation plan.  
(c) For projects requiring a building permit, PUD, etc., a tree conservation plan is required (but not a separate tree clearing permit).

D. Permits. No person, corporation, or other legal entity shall engage in or cause land clearing in the city without having obtained a land clearing permit from the administrator, subject, however, to the provisions of subsection (E) of this section.

E. Exemptions. The following shall be exempt from the provisions of this section:

1. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
2. Removal of trees and groundcover in emergency situations involving immediate danger to life or property or substantial fire hazards;
3. Removal of dead or diseased trees or groundcover;
4. Removal of 6000 sq ft or less of trees or groundcover on partially developed lots in any five year period for purposes of general property and utility maintenance, landscaping or maintenance. Note: This exemption shall not apply to any land clearing which includes the use of a bulldozer or similar mechanical earth-moving equipment, neither shall it be construed to eliminate the requirement of permits being obtained before land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities, or buildings;
5. No separate permit shall be required under this section if an application has been approved for a building permit or preliminary plat.

F. Application.

1. An application for a land clearing permit shall be submitted to the city and shall be accompanied by a map or plot plan of the property and the required fee.

a. The map or plot plan shall be of a scale determined to be adequate by the zoning administrator and shall include: date, north arrow, scale, contours, location or proposed improvements: location, type, size, and condition of existing trees (prepared by an arborist if any trees are over 6" in diameter at breast height

(DBH); general location of groundcover; identification of trees and groundcover to be removed; also the location of adjacent drainage ways, lakes, streams, swamps that may be affected by runoff from the site.

b. Applicant shall also submit a plan to minimize runoff, control erosion, and protect adjacent properties. Such measures may include replanting, reseeding, storm retention ponds, buffer areas or prompt development, this plan shall be approved by a licensed civil engineer.

c. If excavated material is to be disposed of off-site, an indication of the location and the route to the disposal site is to be given.

d. The provisions of the Washington State Environmental Policy Act of 1971 and Anacortes resolutions and/or ordinances and applicable regulations promulgated pursuant to SEPA shall be observed, by submitting a SEPA checklist as a minimum for all clearing permits.

e. The provisions of "Excavation and Grading" of the Uniform Building Code shall be observed.

f. The procedure for obtaining a permit under this section is a parallel procedure for application for permits under other pertinent city regulations and is to be read in conjunction with them.

2. The administrator shall complete this review and make his/her decision, adding conditions as appropriate in a timely manner.

3. Any permit granted hereunder shall expire one year from the date of issuance. Upon a showing of good cause, a permit may be extended for six months. Approved plans shall not be amended without authorization of the administrator. The permit may be suspended or revoked by the city engineer because of incorrect information supplied or any violation of the provisions of this section.

G. Performance Bond. The administrator may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of this permit and within the term thereof. The bond shall be in an amount equal to 200% of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the administrator

H. Appeals. Any person or persons aggrieved by any action of the zoning administrator hereunder may, within ten days of such action, file a notice of appeal with the city council setting forth the reasons for such an appeal. The city council shall hear and determine the matter and may affirm, modify, or disaffirm the administrative decision in a timely manner. No work shall be done during the appeal process. (Ord. 2316 (part), 1994)

## TREE PRESERVATION

### Sections:

<b>16.50.010</b>	<b>Purpose</b>
<b>16.50.020</b>	<b>Applicability</b>
<b>16.50.030</b>	<b>Definitions</b>
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<b>16.50.060</b>	<b>Tree Preservation Plans - Contents</b>
<b>16.50.070</b>	<b>Tree Conservation Standards</b>
<b>16.50.080</b>	<b>Standards for Trees to be Retained or Planted</b>
<b>16.50.090</b>	<b>Residential Development Tree Location Requirements</b>
<b>16.50.100</b>	<b>Protection of Trees Before and After Development</b>
<b>16.50.110</b>	<b>Tree Conservation Affidavits – Development on Sites with Prior Approved Tree Preservation Plans</b>
<b>16.50.120</b>	<b>Review of Tree Preservation Plans and Affidavits</b>
<b>16.50.130</b>	<b>Maintenance Requirements</b>
<b>16.50.140</b>	<b>Minor Modifications to Approved Tree Conservation Permit Approvals or Tree Preservation Plans</b>
<b>16.50.150</b>	<b>Enforcement</b>
<b>16.50.160</b>	<b>Liability of the City</b>
<b>16.50.170</b>	<b>Tree Conservation Affidavit Form</b>

### **16.50.010 Purpose.**

- A. Promote the preservation and growth of healthy, vigorous trees in the City of Anacortes. The known benefits associated with trees and tree cover include, but are not limited to: the filtration of groundwater; the reduction of surface water runoff; flood control; the provision of fish and wildlife habitat; the maintenance of water quality; the cleansing of the air; the abatement of noise; and the conservation of energy.
- B. Recognize that healthy older trees provide substantially more canopy and benefits than newly planted trees.
- C. Acknowledge that City of Anacortes is an established urban growth area and as such is an appropriate location for urban level development and associated urban forestry.
- D. Recognize that the removal of trees and tree cover prior to project permit is strictly controlled by Section 17.54 of the Anacortes Municipal Code (Landclearing).
- E. Unless regulated by a permit condition imposed under this chapter or controlled by other sections of the Anacortes Municipal Code, individual homeowners will be allowed to choose and manage their own landscaping without the necessity of obtaining permits under this chapter; the city will endeavor to offer educational opportunities to homeowners on proper tree selection, location, and care. However, new single family and multi-family homes must comply with Section 17.41 of the Anacortes Municipal Code (Landscaping).
- F. Preserve and replenish the tree stock of Anacortes for the continued health and enjoyment of future generations.

**16.50.020 Applicability.**

A. This chapter applies to the removal or topping of trees in the city limits of City of Anacortes and is organized into the following sections:

**General Provisions** contains introduction and definitions and general provisions that apply to the remainder of chapter 16.50.

**Standards for Tree Conservation** establishes minimum standards for tree conservation required for residential subdivisions and short plats under this chapter. No person shall do any development activity, including but not limited to clearing, grading, and excavation without approved tree protection measures properly installed and maintained. These standards are intended to augment existing landclearing and landscaping standards contained in the City of Anacortes Municipal Code and provide incentives for tree retention during project development and clear and consistent standards for tree planting for new development projects. In the case of any conflicts, the most stringent requirement shall be applied.

**16.50.030 Definitions.**

In addition to the following definitions, this chapter shall rely upon existing definitions contained within the Washington State Forest Practices Act (RCW 76.09), Rules for the Washington State Forest Practices Act (WAC 222-16), and the City of Anacortes Municipal Code.

**A. Arborist:** a person who has met the Criteria for Certification from the International Society of Arboriculture (ISA) and who maintains his or her accreditation.

**B. Canopy Area:** the area covered by the crown of an individual tree as delineated by the vertical projection of its outermost perimeter; small openings in the crown are included.

**C. Canopy Cover:** the percentage of property area covered by the sum canopy area of the trees to be retained on the site post-development as delineated by the vertical projection of its outermost perimeter of the tree branches; small openings in the canopy are included.

**D. Co-dominant Trees:** trees whose crowns form the general level of the canopy cover and receive full light from above, but limited light from the sides.

**E. Contiguous:** near, adjacent, or touching.

**F. Crown:** the area of the tree containing leaf or needle-bearing branches.

**G. Crown Thinning:** the selective removal of branches in a tree crown to increase light penetration, reduce weight, and lessen wind resistance.

**H. Department:** the City of Anacortes Department of Planning and Community Development.

**I. Development:** any alteration, grading, filling, building, earth moving, etc. as is needed to prepare a site for construction, as well as any structure or utility building operations. Preliminary mapping and survey work that is completed using best management practices and results in minimal disturbance of vegetation and soil is not considered to be development activity.

**J. Diameter at Breast Height (d.b.h.):** a tree's trunk diameter in inches measured 4.5 feet above the ground.

1. On multi-stemmed or trunked trees, where the diameter at 4.5 feet above grade is actually greater than that at a lower point on the tree, d.b.h. shall be measured at the

narrowest diameter below 4.5 feet. In such cases the height of the measurement should be noted.

Figure 1

1. "Diameter at breast height (d.b.h.)" means a tree's trunk diameter in inches measured 4- ½ feet above the ground.

1. On multi-stemmed or trunked trees, where the diameter at 4½ feet above grade is actually greater than at a lower point on the tree, d.b.h. shall be measured at the narrowest diameter below 4½ feet. In such cases the height of the measurement should be noted.

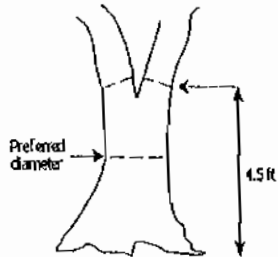


Illustration #1a – Multi-trunked tree

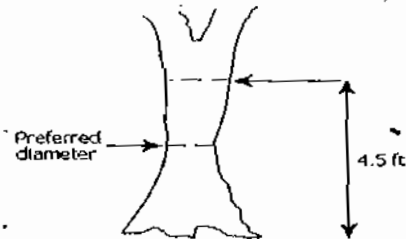


Illustration #1b – Multi-trunked tree

2. On sloping ground, diameter shall be measured from the uphill side of the tree.

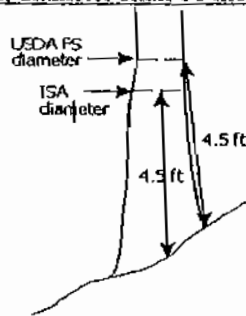


Illustration #2a – Tree on Sloping Ground

3. Leaning trees, diameter shall be measured 4 ½ feet up the stem in the direction of the lean.

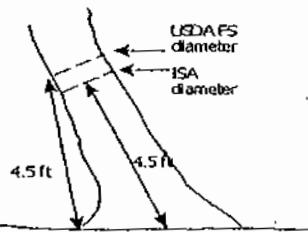


Illustration 3a – Leaning tree

4. On multi-trunked trees, where tree splits into several trunks close to ground level, the diameter shall be the diameter equivalent to the sum of each individual trunk measured according to the principals listed above.

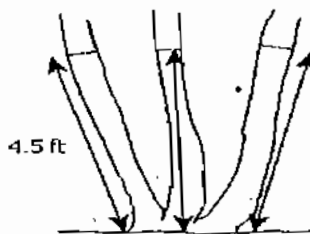


Illustration #4a – Multi-trunk tree, close to ground

- K. Director:** the Director of the City of Anacortes Department of Planning and Community Development or an assigned designee.
- L. Diseased Tree:** a tree, that in the opinion of the City of Anacortes or an expert approved by the City of Anacortes (such as but not limited to an experienced forester, ISA certified arborist, or landscape architect), has a strong likelihood of infecting other vegetation in the area or becoming a hazard as a result of the disease.
- M. Dominant Trees:** trees whose crowns are higher than the general level of the canopy and which receive light from the sides as well as from above.
- N. Environmentally Sensitive Areas (ESAs):** also defined as “critical areas” by the Washington State Growth Management Act. These environmentally sensitive areas in City of Anacortes are geologically hazardous areas, frequently flooded areas, wetlands, aquifer recharge areas, and fish and wildlife habitat conservation areas and are regulated by AMC 17.70.
- O. Forest Land:** as defined in the Washington State Forest Practice Act, all land that is capable of supporting a merchantable stand of timber and is not actively used for a use which is incompatible with timber growing.
- P. Forest Practice:** 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; site preparation prior to development involving tree removal; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.
- Q. Hazard Tree:** any tree which, in the opinion of the City of Anacortes Director or an expert approved by the City of Anacortes (such as but not limited to a professional forester, ISA certified arborist, or landscape architect), poses an unreasonable risk of failure and is a distance of 1.2 tree lengths or less from a permanent structure or frequent use outdoor area.
- R. Intermediate Trees:** trees that are generally surrounded by other trees and whose crowns generally receive no sunlight from the sides but do receive some direct sunlight from above through holes in the tree canopy.
- S. Limbing:** the act of removing unwanted limbs, or branches, from a tree. For example, limbing may be used to remove large branches hanging dangerously over a house without removing the whole tree. Limbing can also create “windows” which can enhance views or mitigate windthrow problems.
- T. Lot:** a designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.
- U. Minimum Tree Conservation Ratio:** Minimum Tree Conservation Standard Ratio applies to a lot of any size. The ratio of 1 tree unit per 1,000 square feet; for example, a 10,000 s.f. lot would have a minimum of 10 tree units and a 7,500 s.f. lot would have 7.5 tree units.
- V. Native Trees:** trees that are determined to be indigenous to Fidalgo Island. The City Planning Department will maintain a list of native trees.
- W. Nuisance Tree:** any tree which, in the opinion of the City of Anacortes Planning Department or an expert approved by the City of Anacortes (such as but not limited to a professional forester, ISA certified arborist, or landscape architect), is an invasive variety, or, due to its location, is causing or is likely to cause significant damage to a permanent

structure that cannot be mitigated without removal of the tree.

**X. Priority Trees:** existing trees with a diameter of 24 inches or greater, or that are at least 100 years old, or provide significant habitat value regardless of girth or age. These trees are given high priority for retention per this chapter.

**Y. Project Permit:** or “project permit application” means any land use or environmental permit or license required from the city for a project action, including but not limited to subdivisions, planned unit developments, conditional uses, shoreline permits, permits or approvals required by the Critical Areas Ordinance (Chapter 17.70 AMC), site-specific rezones authorized by the City of Anacortes comprehensive plan or a formally adopted subarea plan.

**Z. Significant Existing Vegetation:** includes shrubs and deciduous and evergreen trees at least 2 inches diameter at a point (d.b.h.) 4.5 feet above the ground or greater.

**AA. Suppressed Trees:** trees that receive no direct sunlight from the sides or above due to surrounding tree canopy. May receive limited filtered sunlight. Generally weak and slow growing.

**BB. Topping:** a pruning cut to the main stem of a mature tree. Such cuts can result in serious decay and/or forcing out growth of weakly attached upright sprouts below the cut. Topping also results in permanent alteration of tree architecture. For the purposes of this chapter, topping shall be treated the same as tree removal.

**CC. Tree:** any woody plant commonly, but not necessarily, having one main stem or trunk that will reach a minimum height of 15 feet at maturity.

**DD. Tree Commission:** an advisory committee appointed by Mayor/Council to work on tree preservation issues.

**EE. Tree Unit:** a measurement to assign value to the number of trees retained on a site. Table 16.50.120 assigns “tree unit credits” based upon the size of existing or newly planted trees. Utilizing tree units allows larger, older trees to be given more value than younger smaller trees.

**FF. Tree Protection Area:** a protective zone established around the canopy area of a tree or group of trees to prevent damage or destruction during construction and site development activities.

**GG. Weed, Noxious:** an invasive plant which takes advantage of disruptions of natural plant communities, especially those created by human activity, harms and/or displaces valued vegetation, is considered excessively noxious because of its poisonous qualities, or is not aesthetically pleasing to the landscape. The City will maintain a list of undesirable invasive or noxious weeds which will include such plants as English Ivy, Giant Hogweed, Scotch Broom, and Water Hemlock.

**HH. Windfirm:** a tree that is capable of withstanding average peak local wind speeds and gusts without experiencing major breakage or windthrow.

**II. Windthrow:** the uprooting or breaking of a tree due to excessive wind.

#### **16.50.040 Purpose.**

To set forth procedures and standards for tree conservation and tree planting that are applicable to the subdivision of land under this chapter. The retention of existing trees and, where necessary, the planting of new trees as part of land division activities are necessary to protect the environmental quality and aesthetic character of the City of Anacortes, and the quality of life enjoyed by its residents.

**16.50.050 Tree Preservation Plans - Applicability.**

A tree preservation plan shall be required as part of the application for subdivision of residential land (including all planned unit developments, subdivisions, short subdivisions, and short plats). Once a subdivision is approved, the lots within that subdivision are subject to the subdivision's tree preservation plan. That plan may call for installation of trees at the time each lot is built upon. Therefore, home construction on a lot subject to a tree preservation plan must comply with that tree preservation plan as a condition of building permit approval. Once the home is constructed, any necessary trees installed and approved, and the building permit receives final approval, all trees will be maintained for a minimum of three years under Article II, Sec. 16.50.180.

**16.50.060 Tree Preservation Plans - Contents.**

A. All tree preservation plans submitted pursuant to this Chapter shall show the following information, if applicable:

1. Location of all improvements on the site including proposed cleared areas and/or individual trees to be removed;
2. The approximate location of any existing structures and land uses on the site including construction staging areas;
3. The location of all existing and proposed streets, rights-of-way, easements, underground utilities, skid roads, haul roads, and landings within the proposal;
4. Existing healthy trees to be retained including the diameter (at 4.5 feet above grade), species, and location on the site;
5. Existing trees proposed for removal including the diameter and location on the site;
6. Proposed new trees to be planted including the botanical names and sizes.
7. Tree unit credits calculated to document compliance with section 16.50.070.

These calculations shall include:

- a. Calculation of net site area determined by subtracting the area of public and private road rights-of-way;
- b. Calculation of tree unit credits proposed for retention on the site excluding existing trees in adjacent opened or unopened rights-of-way; and
- c. Calculation of tree unit credits for newly planted trees, if applicable.
  - I. Newly planted trees in rights-of-way (street trees) or alleys shall count towards tree unit requirements.
8. The location of future land development including stormwater management facilities, and vegetation to be retained for site landscaping, open space, wildlife habitat, screening, and/or buffers, to the extent known;
9. Site topography at a contour interval of 10 feet or less;
10. Critical areas and critical area buffers regulated pursuant to Title 17.70 – Critical Areas;
11. Drainage ways and culverts;
12. Site area targeted for further harvest including proposed timing, if applicable;
13. North arrow and scale shall be shown on all site plans. The scale shall be no smaller than one inch to 100 hundred feet;

14. A watering plan is required for tree preservation plans that propose new tree plantings. The plan must provide for adequate watering of the newly installed trees at the time of planting and through the dry periods (typically May – September) for a minimum of three years. Some situations (infill in existing forested area where new trees planted in fall rainy season) may require only limited watering; and

15. A root protection plan is required; see 16.50.130.

B. Information utilized in tree preservation plans shall be prepared by an ISA certified arborist.

C. Field Marking of Site Features. At the time of submittal of any application required pursuant to this Title, the following features shall be clearly marked at the site with flagging by the applicant:

1. The location of any identified critical areas and critical area buffers regulated pursuant to Title 17.70 - Critical Areas;
2. The centerline of all proposed access roads;
3. Property boundaries; and
4. Encircle trees to be saved with an orange fence with signs “to be saved”.

D. The Planning Director may waive specific tree preservation plan contents that are determined to be unnecessary for review of the particular tree removal activity. In such event, the Director shall document the waiver in the project file or project log.

#### **16.50.070 Tree Conservation Standards.**

**A. Minimum Tree Density - New Uses on Vacant or Redeveloping Lots.** This section promotes tree conservation by establishing minimum tree density requirement, expressed as one tree unit per 1,000 square feet. It is intended that the tree density requirement will be met primarily through the conservation of existing trees. However, in order to provide for continued flexibility in the design of new development, in those situations where a development’s design would preclude the retention of the required number of trees, the use of replacement or supplemental tree planting is authorized.

**B. Sites with Insufficient Tree Cover.** It is recognized that some sites may not contain a sufficient number of existing trees to meet the tree density requirement. In those situations, additional trees shall be planted as necessary to achieve the requirements of this chapter, unless off-site mitigation is followed.

**C. Off-Site Mitigation** Where an applicant cannot provide sufficient on-site benefits, off-site mitigation, based on the recommendation of the Tree Commission, may be approved by the City Council. Where off-site mitigation is used, the remaining balance of trees must be planted at an off-site location approved by the Parks Department. Where the site is city-owned property, the Public Works or Parks Departments must also approve the tree planting. Acceptable off-site locations, in general order of priority, are as follows:

- a. Publicly owned parks or recreational facilities within the City of Anacortes;
- b. Publicly owned land in the City of Anacortes including but not limited to: critical areas, regional stormwater facilities, or wildlife corridors. Similar lands owned by non-profit entities which are reserved in open space also qualify;
- c. Public school sites within the City of Anacortes;
- d. Street rights-of-way adjacent to City facilities or adjacent to private property when approved by the property owner (street trees).

e. Other mitigation or restoration sites managed by other public entities or private conservation groups;

f. Other sites proposed by the applicant, when it is documented that higher priority sites are not available or viable.

**D. Tree Density Requirements.**

1. All regulated activity shall ensure that the following tree density shall be achieved and maintained during and after development: one tree unit per 1,000 square feet.

2. Calculation of the Total Tree Units Required. The total number of tree units required to be provided by a regulated project or Tree Conservation Permit approval listed in section 16.50.100 shall be calculated by dividing gross site area, minus any public or private street rights-of-way, by 1000. Table 16.50.120(D). The result of the calculation will be the total number of tree units required for the project approval within the building site.

a. The tree unit calculation shall include retained or newly planted trees within the site as well as newly planted street trees located in contiguous public rights-of-way or alleys.

3. Tree Unit Credits. The number of tree unit credits given for retaining existing trees or the planting of new trees varies with tree size in order to encourage the retention of large existing trees and the planting of replacement trees that provide greater canopy areas at maturity. Tree unit credits for the retention of existing trees and the planting of new trees shall be assigned as follows:

**Tree Unit Credits\***  
**Table 16.50.120(D)3**

<b>Tree Size Category</b>	<b>Tree Unit Credits</b>
Existing tree 2" to 5" d.b.h.	1 tree unit per tree retained and protected
Existing tree 5.1" to 10" d.b.h.	2 tree units per tree retained and protected
Existing tree 10.1" to 25" d.b.h.	5 tree units per tree retained and protected
Existing tree 25.1" d.b.h. or larger	8 tree units per tree retained and protected
New or replacement tree,	1 or 2 tree units per tree planted See (B) on Page 9.

\*See diagrams for definition of multi-trunk tree on Page 3, Figure 1.

**16.50.080 Standards for Trees to be Retained or Planted.**

**A. Health and Quality of Trees Proposed for Retention.** Trees proposed for retention must meet the following minimum standards in order to be credited towards satisfying the tree density requirements of this Chapter:

1. Healthy trees over 24" in diameter at d.b.h. or that are over 100 years of age shall be priority trees for preservation. Priority trees should only be removed if their retention is not feasible (e.g., within footprint of likely future building area and not reasonable to modify building size or footprint).

2. Retained trees shall be predominantly dominant or codominant trees (meaning fully branched and generally proportional in height and breadth for the tree age);

3. Retained trees must be healthy and have no substantial evidence of disease (unless identified as a habitat tree per subsection 8 below), meaning that retained trees shall have a relatively sound and solid trunk with no extensive decay or hollow and no significant trunk damage, and should have no significant crown damage;

4. Trees should be selected for retention based upon a consideration of windthrow potential, wildlife value, aesthetics, and integration into other existing vegetation in the surrounding community compatible with future development.

5. Retained trees should be clustered wherever possible to maximize habitat value and to minimize windthrow. Strips of trees along a site's perimeter boundaries should be carefully evaluated for windthrow potential by an ISA certified arborist.

6. Trees being retained in environmentally sensitive areas and associated buffers may be applied to tree unit credit requirements.

7. Trees must be windfirm upon completion of development activities (no significant root damage).

8. Trees identified as having significant wildlife value shall be priority trees for preservation regardless of the health or state of the tree (such as trees with broken crowns ideal for eagle perching or snags, especially along shoreline bluffs), so long as such trees are not a danger to nearby buildings as determined by the Planning Director.

**B. Health and Quality of Trees Proposed for Planting.** Trees proposed for planting must meet the following minimum standards in order to be credited towards satisfying the tree density requirements of this chapter:

1. Each tree shall be healthy stock and carefully planted in a 3 foot or larger hole in good, appropriately fertilized topsoil.

2. Each required deciduous tree shall have a minimum of 2 inch caliper within 6 inches of ground at time of planting.

3. Each required evergreen tree shall have a minimum height of 8 feet at time of planting.

4. Trees planted shall include a mix of coniferous and deciduous trees. At a minimum, 30% of the trees planted shall be coniferous.

5. To avoid potentially unhealthy monocultures, the total number of any individual species of replacement tree planted shall not exceed 30% of the same species or 35% of the same genus of the total number of all replacement trees planted.

a. *For example, red maple (Acer rubrum) and silver maple (Acer saccharinum) are 2 different species, but they are the same genus, Acer (maples). Many pests would not distinguish between a red maple or a silver maple, but those that feed on maples probably will not attack oaks or firs.*

6. Where possible, required trees should predominantly be selected from the native tree species. The City Planning Department will maintain a list of native tree species.

### **16.50.090 Residential Development Tree Location Requirements.**

**A. Tree locations outside residential lots.** Proposed residential subdivisions, short plats, planned unit developments, and condominium projects, shall locate a minimum of 25% of the newly planted trees within areas of land separate from residential lots. Such areas include, but are not limited to open space areas, tree buffers, critical areas, stormwater tracts, and street or alley rights-of-way.

**B. Tree locations within residential lots.** Other trees proposed for residential developments subject to this chapter shall be located within the required side, rear, or front yard areas in order to minimize development related conflicts, unless otherwise approved by the Planning Department. When these lots or building sites are located adjacent to protective tracts (such as park, stormwater, or environmentally sensitive areas), the preferred location of the trees is adjacent to these areas.

**C. Supplemental trees required for residential development.** Where proposed residential subdivisions, short plats, planned unit developments, and condominium projects, require new tree plantings (cannot meet minimum tree density through tree retention alone); new tree plantings may occur after final plat approval, but shall occur in compliance with the tree preservation plan prior to issuance of the final building permit for each lot or condominium unit as it is developed. In such cases the face of the final plat or condominium site plan shall indicate that lot or condominium owners will be responsible for tree plantings prior to final occupancy permits being issued for each home or condominium.

#### **16.50.100 Protection of Trees Before, During, and After Development.**

A. All trees proposed for retention, supplemental tree plantings, and trees on adjacent property shall be protected before and during site development and construction through adherence to the following requirements:

1. Approved tree protection areas shall be designated in the field prior to the initiation of any clearing or grading per tree preservation plan established by an certified arborist. Tree protection areas shall remain in place through site development until project completion, or earlier with prior authorization by the Planning Director.
2. 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 tree preservation plan.
3. Ideally, tree protection areas should extend to the drip line of the tree plus six feet. However, in many instances, this will not be possible due to site constraints. Tree protection areas shall be as large as feasible given site constraints and the nature of the project.
4. Tree protection areas shall be clearly shown on all applicable site development, preliminary plats, and construction drawings.
5. Tree protection areas shall be designated through the following minimum standards:
  - a. Chain link or other type of sturdy construction fencing attached to posts set in the ground a minimum of 12 inches and spaced no more than 10 feet apart; and,
  - b. Colored tape, ribbon, and other identification tags attached to protected trees.
6. Methods to provide additional protection for tree roots include:
  - a. Placing layers of protective mulch, 6 inches – 2 feet deep, over tree roots to help avoid soil compaction over roots that may be subject to nearby equipment use. Once construction is complete, excess mulch shall be removed leaving a maximum of 2 inches mulch cover over pre-existing grade. Then soil should be aerated by drilling holes.
  - b. Tunneling under root systems or circumventing the roots instead of cutting across them.
  - c. No toxic chemicals shall be used in tree protection areas.

7. No clearing, grading, filling, operating of heavy equipment, trenching, or other development activities shall occur within tree protection areas. Tree protection areas may only be modified or temporarily relocated with the prior written approval of the Planning Director.

8. The Planning Director may approve the use of alternate tree protection techniques if the above standards would create an undue hardship upon the applicant (such as designating buffer boundaries for large sites over an acre) and if the trees will be protected to an equal or greater degree than provided by this Chapter.

**16.50.110 Tree Conservation Affidavits – Development on Sites with Prior Approved Tree Preservation Plans.**

**A. Tree conservation affidavits for sites with previously approved tree preservation plans.** Site development and or other activities involving tree removal proposed on property which is subject to a previously approved tree preservation plan shall be required to complete only a tree conservation affidavit. Tree conservation affidavits verify that tree retention areas will be marked, protected and located during subsequent development activities. They are also used to ensure the installation of any trees on a lot required by a prior approved tree preservation plan.

1. For example, a preliminary plat approval may require street trees to be installed prior to final plat approval but may defer individual tree plantings on individual residential lots when each lot is developed with an individual home. In such a case, the trees would be planted consistent with the tree preservation plan for the plat but installed prior to final occupancy of the home.

**16.50.120 Review of Tree Preservation Plans and Affidavits.**

**A.** The Planning Director shall review all tree preservation plans and affidavits to ensure compliance with the requirements of this Chapter prior to the approval of any associated development permit or application.

**B. Tree Conservation Affidavits.**

1. Applicants that are required to complete a tree conservation affidavit as a condition of development approval shall be provided the necessary forms prior to approval of the building or other project permit. The tree conservation affidavit shall include any conditions regarding tree protection and/or planting that apply to the particular property being developed.

2. The City of Anacortes shall not issue building, site development, or other permits for development until such time as the tree conservation affidavit has been completed.

**C. Tree Preservation Plans.**

1. Tree preservation plans shall be reviewed by the Department. Upon completion of its review, the Department shall take one of the following actions:

a. Approve the tree preservation plan, with or without conditions; or

b. Disapprove the tree preservation plan, indicating deficiencies to the

applicant. If the tree preservation plan is determined to be deficient, the applicant shall be notified in writing of the deficiency and shall be provided the opportunity to modify the plan as necessary to comply with the provisions of this Chapter.

2. Tree Preservation Plans shall be reviewed by the Department prior to the approval of the associated underlying permit or application. The underlying permit may not be approved until such time as the Department has approved the tree preservation plan.

3. The tree preservation plan shall be incorporated by reference in any approval issued for the underlying permit or application. Compliance with the tree preservation plan shall be a condition of such approval.

D. The property owner shall be required to record a notice with the Skagit County Auditor. The notice shall provide a public record of any approved tree preservation plan and tree conservation areas; the application of this Title to the property; and that limitations on actions in or affecting the property may exist.

E. With the exception of minor vegetation disturbance to allow surveying and necessary technical studies, tree removal activities pursuant to the tree preservation plan shall not begin until the concurrent project permit application has been approved.

#### **16.50.130 Tree Maintenance Requirements.**

A. **3-Year Maintenance Agreement.** As a condition of final approval, the following project permit approvals shall demonstrate that a minimum 3-year maintenance agreement exists with a commercial landscape care company, or other entity approved by the Director, addressing the following:

1. Newly planted trees in street rights-of-way (street trees), common areas, stormwater ponds, and tree buffers (excluding trees on private single family residential lots, which are the homeowners responsibility);

#### **16.50.140 Minor Modifications to Approved Tree Conservation Permit Approvals or Tree Preservation Plans.**

A. Minor modifications to an approved Tree Conservation Permit approval or tree preservation plan may be approved administratively by the Planning Director provided the proposed modification is minor in nature, does not increase the overall area of tree removal, does not change the overall number of trees removed, or result in tree removal activities occurring within an environmentally sensitive area, critical area buffer, or tree retention area. The submittal of an amended tree preservation plan meeting the requirements of this Chapter may be required. Any modification exceeding these thresholds shall require a subdivision modification pursuant to Chapter 16 of the AMC new application and associated fees.

#### **16.50.150 Enforcement.**

A. The regulations for enforcement of this chapter are set forth in Title 17.66, with the penalty in D(2)a set at \$5,000 per tree plus mitigation according to 16.50.120(D)3. An additional \$1,000 per tree credit unit will also be charged. Money from illegally cut timber shall go to City Tree Keeper Fund to pay for and plant replacement trees throughout the City.

**16.50.160 Liability of the City.**

Nothing in this Chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees, or to relieve the owner or occupant of any private property from the duty to keep in safe and healthy condition the trees upon his property.

**16.50.170– Tree Conservation Affidavit Form.**

**Tree Conservation Affidavit**  
BUILDING PERMIT/SITE DEVELOPMENT PERMIT NO.

THIS PERMIT AUTHORIZES

TO BEGIN \_\_\_\_\_  
IN \_\_\_\_\_ SUBDIVISION OR AT THE  
FOLLOWING  
ADDRESS \_\_\_\_\_

THE AUTHORIZED PERSON ACKNOWLEDGES THAT HE/SHE IS RESPONSIBLE FOR TAKING ADEQUATE STEPS TO:

1. Protect the tree retention areas on this lot as identified in the tree preservation plan (normally the front, rear, and or side yard areas) in accordance with the standards of Chapter 16.50 – Tree Conservation.
2. Field locate, mark, and protect all tree conservation areas on the site during construction. Marking shall consist of tape, ribbon, or tags attached to the retained trees and protective fencing secured by posts set at least 12" into the ground installed in accordance with the requirements of 16.50.150. All tree identification and fencing shall be installed prior to site development and construction and shall remain and be maintained until home construction is 100% completed.
3. Install any trees on the lot required by the approved tree preservation plan.

FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL RESULT IN THE ISSUANCE OF A STOP WORK ORDER OR OTHER CITATIONS.

COUNTY OFFICIAL \_\_\_\_\_ APPLICANT \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_ EFFECTIVE  
THIS \_\_\_\_\_

NOTE: DISPLAY THIS PERMIT AT THE MAIN POINT OF ACCESS AND VISIBLE FROM THE STREET.

## Chapter 17.41

## LANDSCAPING REQUIREMENTS

## Sections:

<b>17.41.010</b>	<b>Purpose and intent.</b>
<b>17.41.020</b>	<b>General site landscaping.</b>
<b>17.41.030</b>	<b>Parking lot landscaping.</b>
<b>17.41.040</b>	<b>Screening requirements.</b>
<b>17.41.050</b>	<b>Existing site vegetation.</b>
<b>17.41.060</b>	<b>Maintenance.</b>
<b>17.41.070</b>	<b>Performance assurance/bonding.</b>
<b>17.41.080</b>	<b>Payment in lieu of landscaping.</b>
<b>17.41.090</b>	<b>Additions to existing buildings and change of use or remodel/renovation.</b>

**17.41.010 Purpose and intent.**

Landscaping is necessary to provide a well-balanced, aesthetically pleasing environment for the residents of Anacortes. Specifically, these requirements are intended to accomplish the following:

- A. Maintain and enhance property values;
- B. Enhance the appearance of the development and the community;
- C. Implement tree and landscaping plans and programs adopted by the city;
- D. Provide adequate buffers between differing land uses;
- E. Improve the character and appearance of the city; and
- F. Reduce erosion and storm water runoff. (Ord. 2528 Att. A § 19 (part), 2000)

**17.41.020 General site landscaping.**

The following general standards will be required in all districts where landscaping is mandatory:

A. Landscaped areas may include use of evergreen and deciduous trees and shrubs, as well as perennial and annual flowers. Gravel, river rock, driftwood, bark, rockeries, lawn, ornamental or decorative walkways (provided both sides abut landscaping), or a combination of such material may also be used provided that living plants make up eighty-five percent of the landscaped area. The area for a tree shall be the area bounded by its drip line. Native plants and those that require little water are preferred. At least half of all plantings shall be trees that typically grow to be over 15 feet in height at maturity.

B. A plot plan drawn to scale shall be submitted to the Planning Director showing the size of the property; location of buildings, driveways, loading docks, aboveground utilities, and outside storage areas; location of landscaping areas, and type, quantity and size of plantings. Minimum tree size shall be one and one-half inch caliper, minimum shrub size shall be two gallon, and minimum ground cover size shall be one gallon or equivalents; see American National Standards Institute's "American Standard for Nursery Stock" for size standards.

C. No artificial lawn or shrubbery will be permitted in landscaped areas.

D. Planting areas along street frontages will be mandatory except for driveways and pedestrian walks within the property. Trees shall be planted at an average of thirty feet apart in such planting areas, with ground cover or shrubs used liberally. Variations in the planting of trees may be approved by the Planning Director, subject to appeal by the proponent(s) to the City Council.

1. Trees utilized in these planting areas need to be compact to minimize conflict with underground and overhead utilities. Trees to be utilized shall be from the recommended approved list of plant materials or an approved equivalent.

2. Planting areas shall be a minimum of fifteen feet wide in the R3, and R4 zoning district. The planting strip may be reduced to a minimum of 10 feet in the CM, CM1, CM2, CBD, C, LM, LM1 and I zoning districts. Averaging shall be encouraged to promote variation of design.

3. In the Central Business District ("CBD") the required landscaping may be provided at any location on the property approved by the Planning Director.

E. Where landscaping areas are placed along street frontages, no shrubs and berms shall be higher than thirty-six inches and no tree shall have branches or foliage below five feet or be placed within twenty feet of the corner of a driveway, alley or street intersection.

F. Landscaping in the vicinity of any fire hydrant, fire department sprinkler connection or standpipe connection should not prevent such equipment from being immediately discernible nor in any other manner deter or hinder the fire department from gaining immediate access to the equipment. The following shall act as a guideline for the landscaping around the equipment, with final approval from the city fire marshal:

1. Fire Hydrants.

a. Fire hydrants shall be free from obstruction on all sides by a minimum clearance of three feet.

b. Fire hydrants along streets, driveways, parking lots, fire access routes (fire lanes), or at intersections shall be visible for at least one hundred feet in all directions along such streets, driveways, access routes or intersections. No plants or shrubs with a height of over eighteen inches and no tree with branches or foliage below five feet shall be allowed in this sight visibility area.

2. Sprinkler and Standpipe Connections.

a. Fire department connections for sprinklers and standpipes shall be free from obstructions on all sides by a minimum clearance of three feet.

b. When a fire department connection is over twenty-five feet from a street, driveway, parking lot or fire access route, there shall be maintained a clear path with minimum width of three feet between the fire department connection and the street, driveway, parking lot or fire access route.

G. Landscaping will be installed in conformance with the following requirements. The percentage of each site to be landscaped is to be regarded as a minimum to be achieved on site, prior to subdivision of individual lots, with the understanding that this requirement can be met by a variety of means including preservation of existing tree groves, tree planting in public rows, etc. as outlined in the ordinance codified in this chapter. In the event that, because of lot configuration, adjacent land uses or special circumstances, more landscaping is required to meet all requirements of this chapter, the higher amount of required landscaping will be installed.

Zoning Classification	Percent of Gross Site Area to be Landscaped
R1, R2, R3, and R4	Twenty percent
CM, CM1, and CM2	Fifteen percent
CBD, C, LM, LM1, I and HM	Ten percent
Airport zone	Ten percent

H. Use of Right-of-Way. In addition to the planting area required in subsection D of this section, landscaping of excess (unused) street right-of-way and/or detention facilities is encouraged. Up to fifty percent of the on-site landscaping requirement can be satisfied by landscaping excess street right-of-way or detention facilities, including open stormwater conveyance swales, if landscaped and maintained. Where a street is at its ultimate width, excess right-of-way is defined as the area between the property line and the sidewalk, whether existing or not. All landscaping materials proposed to be installed in the right-of-way shall be reviewed to ensure that traffic safety considerations are met and future sidewalks can be included. Irrigation or sprinkling systems for watering landscaped areas in the right-of-way shall be encouraged if the project site has fewer than twenty required parking spaces but shall be required if twenty or more spaces are required. Maintenance of landscaping in the right-of-way shall be the responsibility of the owner; provided, however, that nothing in this section shall create or imply any interest of the landscaper and/or property owner in the excess right-of-way, and provided further, that in the event the city shall undertake to utilize the excess right-of-way, any landscaping shall be removed by the landscape and/or property owner at their sole expense, or if not so removed may be destroyed by the city.

I. Irrigation or sprinkling systems for watering landscaped areas are encouraged.

J. Installation of landscaping materials shall take into consideration access to utility vaults, pedestals, and other public and private utility facilities.

K. Natural growth protection, common open space areas and approved NGPE areas outside regulated wetlands may be counted as part of required landscaping.

L. Detention ponds shall have at least ten-foot setbacks from adjacent property lines and shall be landscaped in a manner consistent with existing landscaping standards listed in subsections A through K of this section

M. On port-owned property the gross site area is considered to be the entire contiguous parcel owned by the port unless divided by a public street or a binding site plan has been approved pursuant to Section 16.10.010 of this code. (Ord. 2592 Att. A § 7, 2002; Ord. 2528 Att. A § 19 (part), 2000).

**17.41.030 Parking lot landscaping.**

A. Purpose. The purpose of parking lot landscape development is to soften the visual effect created by large expanses of barren asphalt.

B. Required Area. Planting areas in new parking areas with twenty or more spaces or in upgraded or improved parking areas with twenty or more spaces shall constitute at least five percent of the parking area to be landscaped. Such amounts of landscaping may be included in the overall amount of landscaping required.

C. Minimum Width and Length. Planting areas shall have a minimum average width of ten feet (measured inside the curb) and shall be the same length as the parking stall or column.

D. Landscaped areas shall be distributed throughout the parking lot.

E. Tree Requirements. A minimum of one tree shall be required for each one hundred fifty square feet, or fraction thereof, of required landscape areas. Deciduous trees shall have a clear trunk of at least five feet above the ground, and the remaining area shall be landscaped with shrubs and/or ground covers.

F. Any trees, shrubs, or plants which are susceptible to damage or injury by pedestrian or motor traffic shall be protected by appropriate curbs, tree guards or other protective devices.

G. Landscape Plant Materials. Parking lot landscape areas shall comply with Section 17.41.020(A) as to plant materials

H. Parking lot landscaping will apply towards the total landscaping required in Section 17.41.020(G). (Ord. 2528 Att. A § 19 (part), 2000)

**17.41.040 Screening requirements.**

A. In order to reduce the incompatible characteristics of abutting properties with different land use classifications, the following standards shall apply. The Planning Director may also require these standards to buffer incompatible uses even if the land use classification is the same. This type of landscaping will be installed in planting strips on the interior property lines according to the following schedule. These requirements shall be in addition to other requirements of this chapter, therefore the amount of overall landscaping may exceed the minimum stated in Section 17.41.020(G).

B. Screening is intended to create a visual separation between incompatible uses. Minimum width shall be four feet; however a reduction may be approved by the Planning Director with the concurrence of the adjacent property owner. Screening requirements are as follows: Landscaping shall be made up of evergreen trees planted at a maximum of fifteen feet on center. Use of deciduous trees is also encouraged to add seasonal and textural variation. Up to twenty-five percent of required evergreen trees may be deciduous trees instead. Medium-sized shrubs (three to five feet maturity height) and ground cover plants shall be added at a density to cover eighty-five percent of the ground surfacing and horizontal separation within two years. Landscaping shall incorporate the use of either earth-berming or a six-foot high (reduced in the front yard setback area) sight-screening fence. If the earth-berming alternative is chosen, medium-sized shrubs shall be spaced at a maximum of four and one-half feet on center. Screening is required when the following land use districts abut:

1 District in Which Development Is Proposed	Uses to be Screened
R3, R4, CM, CM1, CM2, CBD, C, LM, LMI, I, HM and Airport zone	R1 and R2

2. Churches, community clubhouses and other conditional uses in the R1 and R2 districts shall install screening ten feet in width on any interior property line.

C. Community buffer screening in the airport zoning district shall be a minimum of thirty feet in width. Within this buffer an eight-foot high, solid wooden fence shall be constructed to mitigate objectionable noise, and to be architecturally pleasing the fence shall be landscaped and maintained with sufficient evergreens and vegetation to obscure the outside of the fence; and shall be installed and maintained as set forth in Figure Y. The use to be screened is considered to be the entire contiguous parcel owned by the port; this parcel includes the port owned R2 "panhandle" property unless a binding site plan has been approved pursuant to Section 16.10.010. No landscaped wooden fence is required along the port's north and south property lines

No landscaping or fencing, except for security fencing, shall be located within the runway object-free area, the taxiway object-free area, the runway protection zone, or the taxiway/taxiway run-up turnout.

No landscaping or fencing, except for security fencing, shall be located such that it intrudes into either the approach surface or the transitional surface.

The height of the screening shall not penetrate the Part 77 transitional surface, shall not interfere with the precision approach path indicators, and the screening itself shall be adjusted to accommodate the segmented circle

On the west side of the airport the fences can be lowered down to a height and constructed of a material that does not obstruct the light from the airport runway [PAPI] lights, or the lights from the wind indicator, or visibility of the segmented circle.

D. Trees shall not be removed from the community buffer area without city approval, replacement, and mitigation, unless there is a hazard to flight.  
(Ord. 2528 Att A § 19 (part), 2000)

#### **17.41.050 Existing site vegetation.**

A. General. Applicants are encouraged to retain significant existing vegetation on the subject property. Significant existing vegetation shall denote deciduous and evergreen trees at least six inches in diameter at a point five feet above the ground or greater.

B. Bonus for Retention. For each significant tree as defined in subsection A of this section, the applicant may measure the canopy of the tree and receive a bonus of two hundred percent of the square footage of the canopy; provided, that the soil within the drip line of the tree is undisturbed, root systems are protected from damage and approved methods are utilized to ensure proper irrigation. The retention bonus shall apply to meeting the requirements outlined in Section 17.41.020(G).

C. Required Review. The city will review the proposed retention of significant existing vegetation as part of the application for development. Any bonus for retention shall be approved only after on-site inspection.

D. If any tree used for bonus credit is removed or lost, it shall be replaced promptly with the same species or an approved substitute under Section 17.41.060. (Ord. 2528 Att. A § 19 (part), 2000)

#### **17.41.060 Maintenance.**

All required landscaping and screening areas shall be maintained in a healthy, growing condition. Broken, dead or dying trees, shrubs or plants shall be replaced promptly upon notification by the city with equivalent landscaping, which in the case of a replacement tree, shall be at least twelve feet in height. All landscaping and screening areas shall be maintained reasonably free of weeds and trash. Any property owner who fails to reasonably maintain and replace landscaping and screening areas will be considered to have committed an offense under this code. (Ord. 2528 Att. A § 19 (part), 2000)

#### **17.41.070 Performance assurance/bonding.**

In the event that landscaping improvements cannot be installed prior to formal certificate of occupancy, a cash deposit, letter of credit or other assurance acceptable to the city equal to one hundred fifty percent of the estimated construction costs shall be required. Such deposit shall be accompanied by a letter which shall stipulate completion of all landscape development no later than six months after issuance of the certificate of occupancy or date of final approval, whichever is later. If these conditions are not met, the city may use the deposit to install the landscaping. (Ord. 2528 Att. A § 19 (part), 2000)

#### **17.41.080 Payment in lieu of landscaping.**

In the event that a proposed project cannot meet the required square footage of landscaping, the proponent/owner/developer may petition the zoning administrator to reduce the requirement. Such petition must show that every reasonable effort has been made to meet the chapter requirements. In the event the zoning administrator approves the request in any form, the proponent/owner/developer will pay an "in lieu" fee based on the square footage reduced by the zoning administrator. The zoning administrator will set a fee schedule which will be approved by the City Council. All "in lieu" fees received will be assigned to a separate fund to be used for landscaping rights-of-way or other beautification projects designed to promote the purpose of this chapter. (Ord. 2528 Att. A § 19 (part), 2000)

**17.41.090 Additions to existing buildings and change of use or remodel/renovation.**

Whenever any addition to an existing building is proposed, the percentage of the expansion of the existing square footage under roof shall equal the percentage of the landscape square footage requirements of this chapter. Whenever any change of use or substantial upgrade or remodel/renovation of an existing use is proposed, the landscaping shall be upgraded to meet the requirements of this chapter. Variation in upgrading requirements may be approved by the Planning Director providing the intent of this chapter is met. (Ord. 2528 Att. A § 19 (part), 2000)