

ORDINANCE NO. 373

POSTED

9-27-84

Doris A. Ward
Treas. Clerk
Town Of Coupeville

AN ORDINANCE regarding the Environmental Procedures Code; adopting the State Environmental Policy Act Rules, establishing fees and repealing Ordinance No's. 277A and 277B adopted October 11, 1976 and February 13, 1978, respectively.

WHEREAS, the State Legislature of the State of Washington, in 1971, adopted the State Environmental Policy Act (SEPA); and

WHEREAS, in 1974, the State Legislature established the Council on Environmental Policy (CEP) and charged it with the responsibility and duty of adopting a uniform system of interpretation and implementation of SEPA; and

WHEREAS, the Council on Environmental Policy adopted final SEPA Guidelines on December 12, 1975, and filed same as Chapter 197-10 of the Washington Administrative Code to be effective January 15, 1976; and

WHEREAS, the Town Council of the Town of Coupeville did adopt sections of Chapter 197-10 by reference as part of its own SEPA Guidelines; and

WHEREAS, the 1983 State Legislature made further changes to the State Environmental Policy Act amending and repealing certain sections and directing the Department of Ecology to adopt rules of interpretation for the purpose of providing uniform SEPA rules for all interpretation for the purpose of providing uniform SEPA rules for all branches of State government including municipal corporations; and

WHEREAS, the Department of Ecology did promulgate such rules as Chapter 197-11 of Washington Administrative Code effective April 4, 1984, which replaced Chapter 197-10 WAC; and

WHEREAS, the Town Council of the Town of Coupeville deem it necessary to amend its SEPA Guidelines and to comply with WAC 197-11-020 by adopting its own SEPA rules consistent with the new statewide rules.

NOW, THEREFORE, the Town Council of the Town of Coupeville, Washington, DO ORDAIN as follows:

SECTION 1 - PURPOSE: The Town of Coupeville does hereby adopt by reference, the policies of the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904.

This ordinance contains this Town's SEPA procedures and policies.

The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance.

SECTION 2 - GENERAL REQUIREMENTS:

- A) (WAC 173-806-020). Purpose of this part and adoption by reference. This part contains the basic requirements that apply to the SEPA process. The Town adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

197-11-040 - Definitions

197-11-050 - Lead Agency

197-11-055 - Timing of the SEPA process

197-11-060 - Content of environmental review

197-11-070 - Limitations on actions during SEPA process

197-11-080 - Incomplete or unavailable information

197-11-090 - Supporting documents

197-11-100 - Information required of applicants

- B) (WAC 173-806-030). Additional definitions. In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this ordinance, the following terms shall have the following meanings, unless the context indicates otherwise:

- 1) "Department" means any division, subdivision or organizational unit of the Town established by ordinance, rule or order.
- 2) "SEPA rules" means chapter 197-11 WAC adopted by the Department of Ecology.
- 3) "Ordinance" means the ordinance, resolution or other procedure used by the Town to adopt regulatory requirements.

- 4) "Early notice" means the Town's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures).
- C) (WAC 173-806-040). Designation of responsible official.
- 1) For those proposals for which the Town is the lead agency, the responsible official shall be the Town Planning Consultant.
 - 2) For all proposals for which the Town is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.
 - 3) The Town shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.
- D) (WAC 173-806-050). Lead agency determination and responsibilities.
- 1) The department within the Town receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.
 - 2) When the Town is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
 - 3) When the Town is not the lead agency for a proposal, all departments of the Town shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No Town department shall prepare or require preparation of a DNA or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the Town may conduct supplemental environmental review under WAC 197-11-600.
 - 4) If the Town or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination.

- Any objection must be made to the agency originally making the determination and resolved within fifteen (15) days of receipt of the determination, or the Town must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen (15) day time period. Any such petition on behalf of the Town may be initiated by the responsible official.
- 5) Departments of the Town are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944: Provided, that the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.
 - 6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.
- E) (WAC 173-806-053). Transfer of lead agency status to a state agency. For any proposal for a private project where the Town would be the lead agency and for which one or more state agencies have jurisdiction, the Town's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the Town shall be an agency with jurisdiction. To transfer lead agency duties, the Town's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the Town shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.
- F) (WAC 173-806-055). Additional considerations in time limits applicable to the SEPA process. The following time limits expressed in calendar days shall apply when the Town processes licenses for all private projects and those governmental proposals submitted to the Town by other agencies.
- 1) Categorical exemptions. The Town shall identify whether an action is categorically exempt within seven (7) days of receiving a completed application.
 - 2) Threshold determination.
 - a) The Town should complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen (15) days of the date an applicant's adequate application and completed checklist are submitted.

- b) When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:
 - 1) The Town should request such further information within fifteen (15) days of receiving an adequate application and completed environmental checklist;
 - 2) The Town shall wait no longer than thirty (30) days for a consulted agency to respond;
 - 3) The responsible official should complete the threshold determination within fifteen (15) days of receiving the requested information from the applicant or the consulted agency.
- c) When the Town must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the Town should complete the studies within thirty (30) days of receiving an adequate application and a completed checklist.
- d) The Town shall complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impact(s) described in the application, within fifteen (15) days of receiving an adequate application and completed checklist.
- G) (WAC 173-806-058). Additional timing considerations.
 - 1) For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the town's staff recommendation to any appropriate advisory body, such as the Planning Commission.
 - 2) If the Town's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the Town conduct environmental review prior to submission of the detailed plans and specifications. The point at which environmental review may be initiated for specific permits or other licenses requiring detailed project plans and specifications is upon submission of the application form(s).

SECTION 3 - CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS:

- A) (WAC 173-806-065). Purpose of this part and adoption by reference. This part contains the rules for deciding whether a proposal has a "probable

significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The Town adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-300 - Purpose of this part
- 197-11-305 - Categorical exemptions
- 197-11-310 - Threshold determination required
- 197-11-315 - Environmental checklist
- 197-11-330 - Threshold determination process
- 197-11-335 - Additional information
- 197-11-340 - Determination of nonsignificance (DNS)
- 197-11-350 - Mitigated DNS
- 197-11-360 - Determination of significance (DS)/Initiation of scoping
- 197-11-390 - Effect of threshold determination.

B) (WAC 173-806-070). Flexible thresholds for categorical exemptions.

- 1) The Town of Coupeville establishes the following exempt levels for minor new construction under WAC 197-11-800 1) b) based on local conditions:
 - a) For residential dwelling units in WAC 197-11-800 1) b) i) up to four (4) dwelling units.
 - b) For agricultural structures in WAC 197-11-800 1) b) ii) up to 10,000 square feet.
 - c) For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800 1) b) iii) up to 4,000 square feet and up to twenty (20) parking spaces.
 - d) For parking lots in WAC 197-11-800 1) b) iv) up to twenty (20) parking spaces.
 - e) For landfills and excavations in WAC 197-11-800 1) b) v) up to 100 cubic yards.
- 2) Whenever the Town establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800 1) c).

C) (WAC 173-806-080). Use of exemptions.

- 1) Each department within the Town that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license and/or

- the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The Town shall not require completion of an environmental checklist for an exempt proposal.
- 2) In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.
 - 3) If a proposal includes both exempt and nonexempt actions, the Town may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:
 - a) The Town shall not give authorization for:
 - 1) Any nonexempt action;
 - 2) Any action that would have an adverse environmental impact; or
 - 3) Any action that would limit the choice of alternatives.
 - b) A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
 - c) A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.
- D) (WAC 173-806-090). Environmental Checklist.
- 1) A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this ordinance; except, a checklist is not needed if the Town and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-960 with the following addition:
 - A) Economic Conditions and Impacts.
 - 2) For private proposals, the Town will require the applicant to complete the environmental checklist, providing assistance as necessary. For Town proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

- 3) The Town may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
 - a) The Town has technical information on a question or questions that is unavailable to the private applicant; or
 - b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.
- E) (WAC 173-806-100). Mitigated DNS.
 - 1) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
 - 2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
 - a) Following submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
 - b) Precede the Town's actual threshold determination for the proposal.
 - 3) The responsible official should respond to the request for early notice within ten (10) working days. The response shall:
 - a) Be written;
 - b) State whether the Town currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the Town to consider a DS; and
 - c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
 - 4) As much as possible, the Town should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
 - 5) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the Town shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal:

- a) If the Town indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the Town shall issue and circulate a DNS under WAC 197-11-340(2).
 - b) If the Town indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the Town shall make the threshold determination, issuing a DNS or DS as appropriate.
 - c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200 foot stormwater retention pond at Y location" are adequate.
 - d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- 6) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen (15) day comment period and public notice.
 - 7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the Town.
 - 8) If the Town's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the Town should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
 - 9) The Town's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the Town to consider the clarifications or changes in its threshold determination.

SECTION 4 - ENVIRONMENTAL IMPACT STATEMENT (EIS)

- A) (WAC 173-806-110). Purpose of this part and adoption by reference. This part contains the rules for preparing environmental impact statements. The Town adopts the following sections by reference, as supplemented by this part:

WAC

- 197-11-400 - Purpose of EIS
- 197-11-402 - General requirements
- 197-11-405 - EIS types
- 197-11-406 - EIS timing
- 197-11-408 - Scoping
- 197-11-410 - Expanded scoping (optional)
- 197-11-420 - EIS preparation
- 197-11-425 - Style and size
- 197-11-430 - Format
- 197-11-435 - Cover letter or memo
- 197-11-440 - EIS contents
- 197-11-442 - Contents of EIS on nonproject proposals
- 197-11-443 - EIS contents when prior nonproject EIS
- 197-11-444 - Elements of the environment
- 197-11-448 - Relationship of EIS to other considerations
- 197-11-450 - Cost-benefit analysis
- 197-11-455 - Issuance of DEIS
- 197-11-460 - Issuance of FEIS

- B) (WAC 173-806-120). Preparation of EIS--Additional considerations.
- 1) Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the Planning Commission under the direction of the responsible official. Before the Town issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.
 - 2) The DEIS and FEIS or draft and final SEIS shall be prepared by Town staff, the applicant, or by a consultant selected by the Town or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the Town will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the Town's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.
 - 3) The Town may require an applicant to provide information the Town does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency. (This does not apply to information the Town may request under another ordinance or statute.)

- C) (WAC 173-806-125). Additional elements to be covered in an EIS. The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this ordinance:
- 1) Economy
 - 2) Social policy analysis
 - 3) Cost-benefit analysis.

SECTION 5 - COMMENTING

- A) (WAC 173-806-128). Adoption by reference. This part contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The Town adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-500 - Purpose of this part
- 197-11-502 - Inviting comment
- 197-11-504 - Availability and cost of environmental documents
- 197-11-508 - SEPA register
- 197-11-535 - Public hearings and meetings
- 197-11-545 - Effect of no comment
- 197-11-550 - Specificity of comments
- 197-11-560 - FEIS response to comments
- 197-11-570 - Consulted agency costs to assist lead agency.

- B) (WAC 173-806-130). Public notice.
- 1) Whenever the Town of Coupeville issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the Town shall give public notice as follows:
 - a) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
 - b) If no public notice is required for the permit of approval, the Town shall give notice of the DNS or DS by:
 - 1) Publishing notice in a newspaper of general circulation in the Town, or general area where the proposal is located;
 - 2) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

- 3) Notifying the news media.
- c) Whenever the Town issues a DS under WAC 197-11-360(3), the Town shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- 2) Whenever the Town issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
 - a) Indicating the availability of the DEIS in any public notice required for a nonexempt license;
 - b) Publishing notice in a newspaper of general circulation in the Town or general area where the proposal is located;
 - c) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - d) Notifying the news media.
- 3) Whenever possible, the Town shall integrate the public notice required under this section with existing notice procedures for the Town's nonexempt permit(s) or approval(s) required for the proposal.
- 4) The Town may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.
- C) (WAC 173-806-140). Designation of official to perform consulted agency responsibilities for the Town.
 - 1) The Town Planning Consultant shall be responsible for preparation of written comments for the Town in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
 - 2) This person shall be responsible for the Town's compliance with WAC 197-11-550 whenever the Town is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the Town.

SECTION 6 - USING EXISTING ENVIRONMENTAL DOCUMENTS:

- A) (WAC 173-806-150). Purpose of this part and adoption by reference. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the Town's own environmental compliance. The Town adopts the following sections by reference:

WAC

- 197-11-600 - When to use existing environmental documents
- 197-11-610 - Use of NEPA documents
- 197-11-620 - Supplemental environmental impact statement--Procedures
- 197-11-625 - Addenda - Procedures
- 197-11-630 - Adoption - Procedures
- 197-11-635 - Incorporation by reference - Procedures
- 197-11-640 - Combining documents

SECTION 7 - SEPA AND AGENCY DECISIONS

- A) (WAC 173-806-155). Purpose of this part and adoption by reference. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The Town adopts the following sections by reference:

WAC

- 197-11-650 - Purpose of this part
- 197-11-655 - Implementation
- 197-11-660 - Substantive authority and mitigation
- 197-11-680 - Appeals

- B) (WAC 173-806-160). Substantive authority.
- 1) The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the Town of Coupeville.
 - 2) The Town may attach conditions to a permit or approval for a proposal so long as:
 - a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance;
 - b) Such conditions are in writing;
 - c) The mitigation measures included in such conditions are reasonable and capable of being accomplished;
 - d) The Town has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.
 - 3) The Town may deny a permit or approval for a proposal on the basis of SEPA so long as:

- a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance;
 - b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 - c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.
- 4) The Town designates and adopts by reference the following policies as the basis for the Town's exercise of authority pursuant to this section:
- a) The Town shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:
 - 1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - 2) Assure for all people of Washington safe, healthful, productive and aesthetically and culturally pleasing surroundings;
 - 3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - 4) Preserve important historic, cultural, and natural aspects of our national heritage;
 - 5) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
 - 6) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
 - 7) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
 - b) The Town recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
 - c) The Town also adopts by reference the policies of the Coupeville Comprehensive Plan as a part of this section.

- 5) Except for permits and variances issued pursuant to chapter 10.70 of the Town code, when any proposal or action not requiring a decision of the Town Council is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the Town Council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten (10) days of the decision being appealed. Review by the Town Council shall be on a de novo basis.
- C) (WAC 173-806-170). Appeals.
 - 1) The Town of Coupeville establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:
 - a) Any agency or person may appeal the Town's procedural compliance with chapter 197-11 WAC for issuance of the following:
 - 1) Appeal of the DNS must be made to the Town of Coupeville within fifteen (15) days of the date the DNS is final (see WAC 197-11-390 (2)(a)).
 - b) For any appeal under this subsection, the Town shall provide for a record that shall consist of the following:
 - 1) Findings and conclusions;
 - 2) Testimony under oath; and
 - 3) A taped or written transcript.
 - c) The Town may require the appellant to provide an electronic transcript.
 - d) The procedural determination by the Town's responsible official shall carry substantial weight in any appeal proceeding.
 - 2) The Town shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.
- D) (WAC 173-806-173). Notice/statute of limitations.
 - 1) The Town applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
 - 2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the Town Clerk or county auditor, applicant or proponent pursuant to RCW 43.21C.080.

SECTION 8 - DEFINITIONS:

- A) (WAC 173-806-175). Purpose of this part and adoption by reference. This part contains uniform usage and definitions of terms under SEPA. The Town adopts the following section by reference, as supplemented by WAC 173-806-040:

WAC

197-11-700 - Definitions
197-11-702 - Act
197-11-704 - Action
197-11-706 - Addendum
197-11-708 - Adoption
197-11-710 - Affected tribe
197-11-712 - Affecting
197-11-714 - Agency
197-11-716 - Applicant
197-11-718 - Built environment
197-11-720 - Categorical exemption
197-11-722 - Consolidated appeal
197-11-724 - Consulted agency
197-11-726 - Cost-benefit analysis
197-11-728 - County/city
197-11-730 - Decision maker
197-11-732 - Department
197-11-734 - Determination of nonsignificance (DNS)
197-11-736 - Determination of significance (DS)
197-11-738 - EIS
197-11-740 - Environment
197-11-742 - Environmental checklist
197-11-744 - Environmental document
197-11-746 - Environmental review
197-11-748 - Environmentally sensitive area
197-11-750 - Expanded scoping
197-11-752 - Impacts
197-11-754 - Incorporation by reference
197-11-756 - Lands covered by water
197-11-758 - Lead agency
197-11-760 - License
197-11-762 - Local Agency
197-11-764 - Major action
197-11-766 - Mitigated DNS
197-11-768 - Mitigation
197-11-770 - Natural environment
197-11-772 - NEPA

197-11-774 - Nonproject
197-11-776 - Phased review
197-11-778 - Preparation
197-11-780 - Private project
197-11-782 - Probable
197-11-784 - Proposal
197-11-786 - Reasonable alternative
197-11-788 - Responsible official
197-11-790 - SEPA
197-11-792 - Scope
197-11-793 - Scoping
197-11-794 - Significant
197-11-796 - State agency
197-11-797 - Threshold determination
197-11-799 - Underlying governmental action

SECTION 9 - CATEGORICAL EXEMPTIONS:

- A) (WAC 173-806-180). Adoption by reference. The Town adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including WAC 173-806-070 (Flexible thresholds), WAC 173-806-080 (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas):

WAC

197-11-800 - Categorical exemptions
197-11-880 - Emergencies
197-11-890 - Petitioning DOE to change exemptions.

SECTION 10 - AGENCY COMPLIANCE:

- A) (WAC 173-806-185). Purpose of this part and adoption by reference. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The Town adopts the following sections by reference, as supplemented by WAC 173-806-050 through 173-806-053 and this part:

WAC

197-11-900 - Purpose of this part
197-11-902 - Agency SEPA policies

- 197-11-916 - Application to ongoing actions
 - 197-11-920 - Agencies with environmental expertise
 - 197-11-922 - Lead agency rules
 - 197-11-924 - Determining the lead agency
 - 197-11-926 - Lead agency for governmental proposals
 - 197-11-928 - Lead agency for public and private proposals
 - 197-11-930 - Lead agency for private projects with one agency with jurisdiction
 - 197-11-932 - Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
 - 197-11-934 - Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
 - 197-11-936 - Lead agency for private projects requiring licenses from more than one state agency
 - 197-11-938 - Lead agencies for specific proposals
 - 197-11-940 - Transfer of lead agency status to a state agency
 - 197-11-942 - Agreements on lead agency status
 - 197-11-944 - Agreements on division of lead agency duties
 - 197-11-946 - DOE resolution of lead agency disputes
 - 197-11-948 - Assumption of lead agency status.
- B) (WAC 173-806-190). Environmentally sensitive areas.
- 1) The Town of Coupeville shall designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with the Town of Coupeville and the Department of Ecology, Headquarters Office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.
 - 2) The Town shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this ordinance, making a threshold determination for all such proposals. The Town shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.
 - 3) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.
- C) (WAC 173-806-200). Fees. The Town shall require the following fees for its activities in accordance with the provisions of this ordinance:

- 1) Threshold determination. For every environmental checklist the Town will review when it is lead agency, the Town shall collect a fee of \$100.00 from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee.
- 2) Environmental impact statement.
 - a) When the Town is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the Town, the Town may charge and collect a reasonable fee from any applicant to cover costs incurred by the Town in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.
 - b) The responsible official may determine that the Town will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the Town and may bill such costs and expenses directly to the applicant. The Town may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the Town and applicant after a call for proposals.
 - c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid.
- 3) The Town may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.
- 4) The Town shall not collect a fee for performing its duties as a consulted agency.
- 5) The Town may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17 RCW.

- D) (WAC 173-806-220). Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

SECTION 11 - FORMS:

- A) (WAC 173-806-230). Adoption by reference. The Town adopts the following forms and sections by reference:

WAC

197-11-960 - Environmental Checklist

197-11-965 - Adoption notice

197-11-970 - Determination of nonsignificance (DNS)

197-11-980 - Determination of significance and scoping notice (DS)

197-11-985 - Notice of assumption of lead agency status

197-11-990 - Notice of action.

SECTION 12 - REPEALER:

That Ordinance No's. 277A and 277B, approved October 11, 1976 and February 13, 1978, respectively, are hereby repealed.

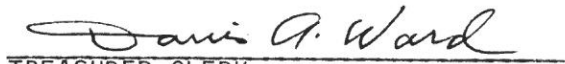
SECTION 13 - EFFECTIVE DATE:

The effective date of this ordinance shall be September 24, 1984.

PASSED by the Town Council of the Town of Coupeville and APPROVED by its Mayor this 24th day of September, 1984.


MAYOR

ATTEST:


TREASURER-CLERK