

# Negotiated Edits to the CAO.

Below are edits proposed for Y.C.C. Title 16C as agreed upon during mediation.

- 1) Table of Contents, add:  
Chapter 16C.11 Upland Wildlife Habitat Conservation Areas
- 2) Section 16C.01.04 (Intent of Title), strike 16C.01.04(i).  
~~(i) Recognized that mining and related uses are an appropriate use within designated critical areas when conducted in a manner consistent with the laws of the state that already govern mining including, but not limited to, the Surface Mining Act, RCW 78.44.~~
- 3) Section 16C.02.321 (Qualified Professional), edit to read as follows:  
(h) A qualified professional for habitat assessments and habitat management plans must have a bachelors degree or higher in biology and professional experience related to the subject species or habitat.  
~~(hi) Or other person/persons.....~~
- 4) Section 16C.03.05 (f), (Minor Activities Allowed without a Permit or Exemption), amended as follows:  
f) Noxious weed control outside vegetative buffers identified in Chapter 16C.06.16, except for area wide vegetation removal/grubbing;
- 5) Section 16C.03.06(11)(b), amended as follows:  
b) Those activities listed in sections 16C.03.09 (Exemptions for Upland Wildlife Habitat and Habitat of Local Importance Conservation Areas) are exempt from the standard development permit requirements for Upland Wildlife Habitat and Habitat of Local Importance Conservation Areas (16C.06.0411);
- 6) Section 16C.03.07, (Exemptions for Hydrologically Related Critical Areas and Wetlands), strike subsections (1), (2), (3), (7), (10), (12), (15), & (16).
- 7) Section 16C.03.09, (Exemptions for Upland Wildlife Habitat...), amended as follows:  
**16C.03.09 Exemptions for Upland Wildlife Habitat and Habitats of Local Importance Conservation Areas**  
The following development activities are exempt from standard development permits that are required for Upland Wildlife Habitat and Habitats of Local Importance Conservation Areas designated in section 16C.06.0411:  
a) a) Agricultural and other accessory uses or structures that maintain the existing natural vegetation (rangeland grazing, stock fences, outdoor recreation, etc.);  
b) ~~Any development and associated facilities with less than a 1/2 acre of disturbance area on existing lots;~~  
c) ~~New driveways or roads less than 1/2 mile in length;~~  
d) b) A Additions to or alteration of existing single family residences and associated facilities.  
e) ~~Subdivision consistent with zoning districts, with roads totaling less than a 1/4 mile in length or less. Clustering to reduce infrastructure is encouraged;~~

- ~~f) Development for which a biological assessment or a biological opinion for federal review is provided.~~
- 8) Section 16C.03.18 (2), (Upland Wildlife), edit to read as follows:  
**Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat ~~and Habitats of Local Importance~~ **Conservation Areas**, it shall include...
  - 9) Section 16C.03.27 (3)(b)(ii), (Subdivision Standards), strike through “Upland Wildlife Habitat Conservation Areas”, as follows:  
ii) When Geologically Hazardous Areas (excluding Erosion, Over steepened Slopes of Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), ~~Upland Wildlife Habitat Conservation Areas~~,
  - 10) Section 16C.03.27 (3)(b)(v), (Subdivision Standards), strike through “Upland Wildlife Habitat Conservation Areas”, as follows:  
v) For new lots containing ~~Upland Wildlife Habitat Conservation Areas~~, streams, wetlands, and/or vegetative buffers, outdoor use envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the plat that lie outside said critical areas;
  - 11) Chapter 16C.06 ( Chapter 6, “Table of Contents”, Designation and Mapping), strike through references to sections 16C.06.04 & 16C.06.09, as follows:

<b>Designation and Mapping</b>	
16C.06.03	Hydrologically Related Critical Area Features
<del>16C.06.04</del>	<del>Upland Wildlife Habitat and Habitats of Local Importance</del>
16C.06.05	Functional Properties
16C.06.06	Stream, Lake and Pond Typing System
16C.06.07	Wetland Rating System
16C.06.08	Maps
<del>16C.06.09</del>	<del>Upland Wildlife Habitat and Habitats of Local Importance Development Standards</del>
  - 12) Section 16C.06.01, (Purpose and Intent), strike through subsection (h), as follows:  
h) ~~Emphasize that these provisions do not attempt to protect individuals of species. Rather, these provisions are intended to provide protection for wildlife habitats.~~
  - 13) Section 16C.06.02(1)(c), (Protection Approach), edit to read as follows:  
c) Protect ~~habitat for upland~~ **habitat conservation areas** ~~species~~ using the ~~upland wildlife~~ habitat protection measures ~~described below~~ **of Chapter 16C.11.**
  - 14) Section 16C.06.02(2), (Protection Approach), amended as follows:  
2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land, including State Natural Area Preserves and Natural Resource Conservation Areas. These lands are managed to some extent for the conservation of wildlife habitat. Consequently, one of Yakima County’s approaches to protecting all wildlife habitat types is to rely on the management of these lands by the responsible entity. **The protection of Larch mountain salamander (*Plethodon larselli*) (State Sensitive, Federal Species of Concern) and Spotted Owl (*Strix occidentalis*) (State Endangered, Federal Threatened) habitat is accomplished through this approach, since their habitat of primary association is located within Federal ownership.**
  - 15) Section 16C.06.02(5), (Protection Approach), edit to read as follows:

5) Yakima County's approach to protecting aquatic habitat is to rely on the protection standards for stream corridors, wetlands, and Shoreline jurisdiction (where applicable).

6) The state gives some discretion to local governments in designating fish and wildlife habitat. WAC 365-190-080(5)(a) (fish and wildlife habitat designation) identifies six non-marine habitat types from which to choose in designating fish and wildlife habitat, but does not require the use of all listed habitat types. Five habitat types are protected using the approaches described above. The remaining habitat type—Threatened, Endangered, and Sensitive Species Habitat is difficult to use due to the difficulties in obtaining accurate maps of habitat for the different species. In addition, such species are protected by federal and state laws which are administered by other agencies. Yakima County's approach to protecting Threatened, Endangered, and Sensitive Species Habitat is to do so indirectly, using each of the above listed protection approach items. Direct protection measures are deferred to the relevant state or federal agency with jurisdiction over the different species. Yakima County will consider comments and advice related to a species from such agencies in the course of normal development review processes.

Through the wildlife habitat analysis, habitat for listed state and federal threatened, endangered, and sensitive species was assessed and incorporated for upland species. Consequently, Yakima County's approach to protect habitat for listed state and federal threatened, endangered, and sensitive upland species is to require approval of a standard development permit, the submittal of a habitat assessment, and where necessary, development of a management plan consistent with state and/or federal guidelines as outlined in Section 16C.11.060 and 16C.11.070 below. Protection measures for Bull Trout (*Salvelinus confluentus*) (State Candidate, Federal Threatened) and Steelhead (*Oncorhynchus mykiss*) (State Candidate, Federal Threatened) are accomplished by the standards in chapter 16C.06.

- 16) Section 16C.06.04. Delete entire section, as follows: (Note that it has been moved to and edited in section 16C.11)

**16C.06.04 — Upland Wildlife Habitat and Habitats of Local Importance**

- 1) State Natural Area Preserves and Natural Resource Conservation Areas shall be designated Upland Wildlife Habitat.
- 2) Species and Habitats of Local Importance. These are habitats or species that due to their declining population, sensitivity to habitat manipulation or other values make them important on a local level. Habitats of Local Importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
- a) Species and Habitats of Local Importance may be identified for protection under this title. State or local agencies, individuals or organizations may identify and nominate for consideration specific species and habitats, or a general habitat type, including streams, ponds or other features. Proponents shall have the burden of presenting evidence concerning the criteria set forth below. The nomination shall be processed once a year through the annual *Comprehensive Plan 2015* amendment cycle.
- b) The decision for changes to species and habitats of local importance should consider:
- i) Concern due to population status;
  - ii) Sensitivity to habitat manipulation;
  - iii) Importance to the local community, and/or;
  - iv) The economic impact both positive and negative to the applicants property or surrounding property. Economic impacts are to be determined by a properly qualified individual or firm using industry standards.

e) ~~Nominated habitats, and habitats for species of local importance shall consider the following, and must include maps to illustrate the proposal:~~

- ~~i) A seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain or reproduce over the long term;~~
- ~~ii) Areas of high relative density or species richness, breeding habitat, winter range, and movement corridors;~~
- ~~iii) Habitat with limited availability or high vulnerability to alteration;~~
- ~~iv) Whether these habitats are already identified and protected under the provisions of this or other county ordinances or state or federal law.~~

d) ~~Habitat management recommendations shall be included for use in the administration of this chapter.~~

17) Section 16C.06.05, (Functional Properties), delete subsection 5, as follows:  
~~5) Wildlife habitat consists of the arrangement of food, water, cover, and space required to meet the biological needs of an animal. Different wildlife species have different requirements, and these requirements vary over the course of a year. Wildlife habitat generally includes one or more of the following functional properties:~~

- ~~a. Reproduction and/or nesting;~~
- ~~b. Resting and refuge;~~
- ~~c. Foraging for food;~~
- ~~d) Dispersal and migration.~~

18) Section 16C.06.09, (Upland Wildlife and Habitats of Local Importance Development Standards), delete entire section, as follows: (Note that content has been moved to and edited in section 16C.11)

**~~16C.06.09 — Upland Wildlife and Habitats of Local Importance Development Standards~~**

~~Projects located within an Upland Wildlife Habitat Critical Area or Habitats of Local Importance, as designated in section 16C.06.04, shall meet the following standards listed below, rather than the development standards in 16C.06.10 through 16C.06.23 for Hydrologically Related Critical Areas, unless review is also needed for a Hydrologically Related Critical Area.~~

~~1) Projects shall be designed using management recommendations established for the species or habitat by federal and state agencies, or those adopted for Species and Habitats of Local Importance by Yakima County. The department shall consider the extent such recommendations are used in its decision on the proposal, and may consider recommendations and advice from the agencies with expertise.~~

19) Section 16C.06.16, (Vegetative Buffers), Table 6-1 modified as follows:

**Table 6 – 1**

<b>Stream Type</b>	<b>Buffer Width</b> Standard/(minimum adjustment) See 16C.06.16, subsections 1-4.
Type 1 Shoreline streams, lakes and ponds	100' <u>(Type 1 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D) rather than the Critical Areas Ordinance (YCC Title 16C))</u>
Type 2 streams, lakes and ponds	75'/(25')
Type 3 streams (Perennial), lakes and ponds	50'/(25')
Type 4 streams (Intermittent), lakes and ponds	25'/(15')
Type 5 streams (Ephemeral)	<b>No buffer standards</b> Type 5 streams are not regulated

	<p><u>Type 5 streams are not regulated through buffer requirements, but activities such as clearing, grading, dumping, filling, or activities that restrict or block flow, redirect flow to a point other than the original exit point from the property or result in the potential to deliver sediment to a drainage way/channel, are regulated under clearing and grading regulations. These drainages may also be protected under geologically hazardous area, floodplain, stormwater, building and construction, or other development regulations..</u></p>
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20) Section 16C.11, (Upland Wildlife Habitat Conservation Areas) the entire section is new, as follows:

**Upland Wildlife Habitat Conservation Areas**

**Sections:**

16C.11.010 Purpose and Intent

16C.11.020 Protection Approach

16C.11.030 Functional Properties

16C.11.040 Upland Wildlife Habitat and Habitats of Local Importance

16C.11.050 Mapping

16C.11.060 Critical Areas Report Requirement

16C.11.070 Upland Wildlife and Habitats of Local Importance Development Standards

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**16C.11.010 Purpose and Intent**

- 1) Wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important (WAC 365-190-080(5)).
- 2) It is the intent of these provisions to classify seasonal ranges and habitat elements with which federal and state listed endangered, threatened and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
- 3) It is the purpose of these provisions to protect, conserve and encourage restoration, where practical, natural habitats of fish and wildlife species.

**16C.11.020 Protection Approach**

- 1) To maintain viable populations of fish and wildlife species, there must be adequate environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals at a variety of scales across the landscape. Key factors affecting habitat quality include fragmentation, the presence of essential resources such as food, water, nest building materials, the complexity of the environment, and the presence or absence of predator species and diseases. As a method of linking large habitat areas, migration corridors offer a means by which to connect publicly protected lands and other intact habitat areas. Yakima County protects habitat for upland species using the Upland Wildlife Habitat Conservation Area and associated protection measures described below.

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- 2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land. These lands are generally managed for the conservation of wildlife habitat. Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is to rely on the management of these lands by the responsible entity (i.e. US Forest Service, US Bureau of Land Management, US Department of Defense, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, Yakima Nation, etc.). The protection of Larch mountain salamander (*Plethodon larselli*) (State Sensitive, Federal Species of Concern) and Spotted Owl (*Strix occidentalis*) (State Endangered, Federal Threatened) habitat is accomplished through this approach, since their habitat of primary association is located within Federal ownership.
- 3) To aid in upland wildlife protection on private lands, Yakima County followed a methodology utilizing Gap Analysis Program (GAP) data to map wildlife habitat. Comparison of the map to public lands shows that a small percentage of the mapped area is within private ownership. An analysis of the privately owned lands showed that they are largely in remote areas that are undeveloped with no cultivated agriculture. The predominate land use on these private lands is forest and rangeland. Consequently, part of Yakima County's approach to protect upland wildlife on private land is to rely on the large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum) and Agriculture (40 acre minimum) zoning districts.
- 4) Through the wildlife habitat analysis, habitat for listed state and federal threatened, endangered, and sensitive species was assessed and incorporated for upland species. Consequently, Yakima County's approach to protect habitat for listed state and federal threatened, endangered, and sensitive upland species is to require approval of a standard development permit, the submittal of a habitat assessment, and where necessary, development of a management plan consistent with state and/or federal guidelines as outlined in Section 16C.11.060 and 16C.11.070 below. Protection measures for Bull Trout (*Salvelinus confluentus*) (State Candidate, Federal Threatened) and Steelhead (*Oncorhynchus mykiss*) (State Candidate, Federal Threatened) are accomplished by the standards in chapter 16C.06.

#### **16C.11.030 Functional Properties**

Wildlife habitat consists of the arrangement of food, water, cover, and space required to meet the biological needs of an animal. Different wildlife species have different requirements, and these requirements vary over the course of a year. Wildlife habitat generally includes one or more of the following functional properties:

- a) Reproduction and/or nesting;
- b) Resting and refuge;
- c) Foraging for food;
- d) Dispersal and migration.

#### **Designation and Mapping**

#### **16C.11.040 Upland Wildlife Habitat Conservation Areas**

- 1) Upland Wildlife Habitat Conservation Areas are those areas within which state or federally designated endangered, threatened, or sensitive species have a primary association. State listed species are those native fish and wildlife species legally designated as Endangered (WAC 232-12-014), Threatened (WAC 232-12-011) or Sensitive (WAC 232-12-011) by the Washington Fish and Wildlife Commission. Federal listed Threatened, Endangered or Sensitive species means all species of wildlife listed as such by the United States Secretary of the Interior or Commerce.

- 2) Upland Wildlife Habitat Conservation Areas include State Natural Area Preserves and Natural Resource Conservation Areas.
- 3) Upland Wildlife Habitat Conservation Areas include Species and Habitats of Local Importance. These are habitats or species that due to their declining population, sensitivity to habitat manipulation or other values make them important on a local level. Habitats of Local Importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
  - a) Species and Habitats of Local Importance may be identified, for protection under this title. State or local agencies, individuals or organizations may identify and nominate for consideration specific species and habitats, or a general habitat type, including streams, ponds or other features.
  - b) Review of a Species and/or Habitat of Local Importance application is a legislative action, and shall be processed during the Comprehensive Plan amendment cycle.
  - c) Species and/or Habitat of Local Importance applications shall be docketed for official action with the Planning Commission in accordance with section 16B.10.090 (Development Regulation Amendments) with no fee requirements.
  - d) The Planning Commission may convene a best available science committee to ensure the Species and/or Habitat of Local Importance application conforms to RCW 36.70A.172 and WAC 365-195-900 through WAC 365-195-925.
  - e) Species and/or Habitat of Local Importance shall be adopted as appendices to this title.
  - f) Species and/or Habitat of Local Importance applications shall be reviewed for conformance with subsections (g) and (h) below.
  - g) Applicants for Species and/or Habitat of Local Importance shall present evidence concerning the criteria set forth in sub-section (h) below, including maps to illustrate the proposal and habitat management recommendations for use in the administration of this chapter, and/or:
  - h) The review of nominated habitats, and habitats for species of local importance shall consider the following.
    - i) Concern due to population status;
    - ii) Sensitivity to habitat manipulation;
    - iii) A seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain or reproduce over the long term;
    - iv) Areas of high relative density or species richness, breeding habitat, winter range, and movement corridors;
    - v) Habitat with limited availability or high vulnerability to alteration;
    - vi) Whether these habitats are already identified and protected under the provisions of this or other county ordinances or state or federal law.

#### **16C.11.050 Mapping**

- 1) The approximate location and extent of upland wildlife habitat conservation areas for, Endangered, Threatened and Sensitive species are shown on the County's critical area map titled, "Upland Wildlife Habitat Conservation Areas of Yakima County". This map is to be used as a guide for the county, project applicants and/or property owners, and may be updated as more detailed data becomes available. This map is a reference and does not provide a final critical area designation.
- 2) The Upland Wildlife Habitat Conservation Area map utilized GAP (Gap Analysis Project) and Department of Fish and Wildlife data. GAP data is derived from satellite imagery and modeling of vegetation and species presence. The wildlife habitat analysis methodology was chosen to protect wildlife from a regional perspective rather than a

species-specific perspective, to identify areas of high biodiversity for long-term species survival. The methodology:

- a) Uses the richest habitat areas;
- b) Includes some habitat for all species;
- c) Focuses on large habitat areas that are most remote from human development;
- d) Uses publicly owned lands as much as possible;
- e) Provides corridor links between blocks of habitat areas using streams, and steep ridge slopes;
- f) Considers WDFW Priority Habitat and Species and Wildlife Heritage data to test accuracy, and;
- g) Covers threatened endangered and sensitive species on private land.

#### **16C.11.060 Permit and Critical Areas Report Requirement**

- 1) Developments proposed within an upland wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species or a species of local importance has a primary association may be required to submit Critical Areas Identification Form and site plan as per 16C.03.02(1). The Administrative Official may require a habitat assessment to be submitted if it is determined that the development proposal could impact the UWHCA. A habitat assessment is an investigation of the project area to evaluate the presence or absence of such species, and areas with which such species has a primary association.
- 2) In addition to the general critical area report requirements of Section 16C.03.17, habitat assessments and habitat management plans must be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant species and habitat. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.
- 3) If the habitat assessment determines that such species or habitat area is present on site, and are likely to be impacted by the development proposal, then a standard development permit and management plan are required.
- 4) If a standard development permit and management plan are required, as determined by the habitat assessment, it shall follow published federal, state, or local management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area. Management plans developed by an independent third party shall be provided for review by the Department of Fish and Wildlife or the responsible federal agency. The Administrative Official shall consult with the appropriate agency and consider their comments through the review process.

#### **16C.11.070 Upland Wildlife Habitat Conservation Area Development Standards**

Projects located within an Upland Wildlife Habitat Conservation Area as designated in section 16C.11.040 shall meet the following standards listed below, rather than the development standards in 16C.06.10 through 16C.06.23 for Hydrologically Related Critical Areas, unless review is also needed for Hydrologically Related Critical Areas.

Projects shall be designed using management recommendations established for the species or habitat by federal and state agencies, or those adopted for Species and Habitats of Local Importance by Yakima County. The department shall consider the extent such recommendations are used in its decision on the proposal, and may consider recommendations and advice from the agencies with expertise

- 21) In addition to Title 16C, YCC Title 13 Building and Construction, Appendix J Clearing and Grading, amend J102.1 of YCC 13.05 as follows:  
DRAINAGEWAY/CHANNEL. A natural land surface depression with or without perceptively defined beds and banks to which surface runoff gravitates and collectively forms a flow of water continuously or intermittently in a definite direction. This definition does not include artificially created drainageways/channels used for distribution of water for irrigation purposes or for collection of return flows, nor does it apply to sheet flow during flooding conditions.