

YAKIMA COUNTY PUBLIC SERVICES DEPARTMENT
Planning Division, Long Range Planning Section

TO: Planning Commission

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ISSUE: Critical Areas Ordinance 16C Updates – Overview of Updates and Changes

General:

The State of Washington Growth Management Act (GMA) requires Yakima County to periodically update the Comprehensive Plan and development regulations, including the Critical Area Ordinance (CAO). The current CAO was most recently updated in 2007 (BOCC Ordinance 13-2007), with the final point of appeal resolved in 2013 (BOCC Ordinance 4-2013); however, the County is required to complete the periodic update cycle in 2017. The GMA identifies five critical areas to be protected: (1) Wetlands, (2) Critical Aquifer Recharge Areas, (3) Fish and Wildlife Habitat Conservation Areas, (4) Frequently Flooded Areas, and (5) Geologically Hazardous Areas.

To facilitate the update process, the existing CAO was evaluated and edited to comply with current state law by using two checklists provided by the Washington State Department of Commerce (Commerce): Commerce’s Periodic Update Checklist for Counties – Updated June 2013 (CPUC), and GMA Update - Critical Areas Checklist Questions Explained (GUCACQE). In addition, text was edited for clarity; definitions and references were updated; and formatting, spelling, and grammatical errors were corrected. Edits to the existing ordinance, was completed by County staff. Based on the review, no substantive changes are proposed to the Critical Areas Ordinance. A summary of the proposed changes is provided below.

General Revisions:

1. 16C.01.05(1)(a)(ii) Applicability (CAO page 4): Added “effective date” in parentheses to clarify when the CAO became effective.

2. 16C.01.05(3) and (4) Applicability (CAO page 4 and 5): Added Voluntary Stewardship Program (VSP) information. VSP is a program passed into Washington law in 2011 as an alternative for protecting critical areas in areas used for agricultural activities.
3. 16C.01.06(2) Science and Protection of Anadromous Fish (CAO page 5): Added “pacific lamprey” as it is an anadromous fish that is native to the Yakima River Basin.
4. 16C.02.020 (CAO page 7): Added definition of Agricultural Activities from WAC 173-26-020(3)(a) and assigned “16C.02.020” as its new section number. Definition was added to reflect the definition used in the VSP process to determine if the CAO applies to the activity.
5. 16C.02.425 (CAO page 19): Updated wetland definition to reflect RCW 36.70a.030(21).
6. 16C.03.01 (CAO page 22): Replaced the words “shall run with the land” with “are conveyed to the applicant, their grantees, and assignees to make the intended meaning more understandable.
7. 16C.03.05(1)(b) (CAO page 25): Revised the wording to provide clarification that minor maintenance and repair is not limited to clearing out waterways, but can include minor repairs to other legally established structures.
8. 16C.03.26(2)(ii) (CAO page 39): Added the words “Critical Areas” Adjustment “Permit” to clarify the type of review that is required.
9. 16C.04.01 (CAO page 43): Replaced the words “cease and desist” with “Notice of Violation and/or Stop Work Order” to reflect current enforcement action procedures.
10. 16C.06.01(2)(g) (CAO page 62) and 16C.11.010(1) Purpose and Intent (page 91): Updated Fish Wildlife Habitat Conservation Areas definition and changed source reference from WAC 365-190-080(5) to WAC 365-190-130(1).
11. 16C.06.11(5) (CAO page 67): Added the following words for the clarification of the development standards: “are considered to have met the following required development standards that apply to all projects:”
12. 16C.06.16 Table 6-1 (Type 5 stream) (CAO page 71): Added “However” to clarify how these streams are regulated.
13. 16C.07.05(1) (CAO page 80): Revision was made to provide complete guidance on the latest information on how to meet compensatory mitigation requirements and where to find it). Added the following: “*Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance* and *Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans*. Publication number 05-06-008 - <https://fortress.wa.gov/ecy/publications/summarypages/0506008.html>).

14. 16C.07.05(2) (CAO page 80): Not a required revision from a Commerce checklist, but this revision is needed to provide information on where to find a publication: added <https://fortress.wa.gov/ecy/publications/summarypages/0506008.html>.
15. 16C.08.02(1) and (3) Mapping and Designation (CAO page 81 and 82): Updated WAC source reference from WAC 365-190-080(b) through (h) to 365-190-120(3).
16. 16C.09.03(1) Mapping (CAO page 87): Added new document for WA Department of Ecology CARAs Guidance Document.
17. Appendix A Designated Type 2 Stream Corridors (CAO page 97): Updated legal description of Wenas Creek to reflect Best Available Science provided by the Yakama Nation from data collected on the location of Steelhead in Wenas Creek.

GMA Update - Critical Areas Checklist Questions Explained Revisions (See attached GUCACQE):

18. 16C.01.03 (GUCACQE Question 5 and 12, CAO page 2): Added “protect and maintain the function and values of critical areas and give special consideration to conservation or protections measures necessary to reserve or enhance anadromous fisheries.”
19. 16C.01.05(1) (GUCACQE Question 6, CAO page 3): Added “irrespective of parcel boundaries”
20. 16C.06.03 (GUCACQE Question 11, CAO page 63): Added “are designated critical areas and”
21. 16C.06.16(1) (GUCACQE Question 12, CAO page 70): Added “and maintain”
22. 16C.08.02(1) (GUCACQE Question 11, CAO page 81): Added “are designated critical areas and.”
23. 16C.09.02 (GUCACQE Question 11, CAO page 87): Added “CARAs are designated critical areas.”
24. 16C.11.040(1) (GUCACQE Question 11, CAO page 92): Added “are designated critical areas and.”

Commerce Periodic Update Checklist (CPUC) Revisions (See attached completed CPUC):

25. 16C.02.203 (CPUC Question 11j, CAO page 11): Added a required definition for Fish and Wildlife Habitat Conservation Areas from WAC 365-190-030(6)(a)(c) and assigned “16C.02.203” as its new section number.
26. 16C.03.18(3)(a) Supplement Report Requirements for Specific Critical Areas (CPUC 11e, CAO page 33 and 34): Deleted obsolete WA State Wetlands Identification and Delineation Manual and

added RCW 90.58.515 adopted Army Corps of Engineers 1987 Wetlands Delineation Manual and Regional Supplement Wetland Delineation Manuals including “Arid West Final Regional Supplement” and the “Western Mountains, Valley, and Coast Regional Supplement.”

27. 16C.07.04(2)(a) – (d) Wetland Functions and Ratings (CAO page 78 and 79): Updated publication number, link, expanded definitions, and new rating system scale.

28. 16C.07.05(1) and (2) Compensatory Mitigation Requirements (CAO page 80): Updated with new publication references and links.