

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 5-2017

IN THE MATTER OF ADOPTING ORDINANCE NO. 5-2017 PERTAINING TO THE GROWTH MANAGEMENT ACT UPDATE TO YAKIMA COUNTY CODE TITLE 16C, CRITICAL AREAS ORDINANCE, OF YAKIMA COUNTY

WHEREAS, RCW 36.70A, the Growth Management Act (GMA), requires all local governments to designate Critical Areas, and develop regulations for their protection (RCW 36.70A.170 (1)(d), RCW 36.70A.060 (2)). The GMA defines Critical Areas as (1) wetlands, (2) areas with a critical recharging effect on aquifers used for potable water, (3) fish and wildlife habitat conservation areas, (4) frequently flooded areas, and (5) geologically hazardous areas (RCW 36.70A.030(5)); and

WHEREAS, the Board most recently updated the Critical Areas Ordinance (CAO) in 2007 (Ordinance No. 13-2007), and settled points of appeal in 2013 (Ordinance 4-2013); and

WHEREAS, the GMA requires Yakima County to review and evaluate its development regulations and to take legislative action, if needed, to revise its development regulations to ensure they comply with the requirements of, and time periods in, RCW 36.70A; and

WHEREAS, WAC 365-190-080 establishes minimum guidelines for what Yakima County must include in protecting each critical area; and

WHEREAS, the GMA (RCW 36.70A.172) also requires Yakima County to include the review of Best Available Science (BAS) and give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries in its review of its development regulations; and

WHEREAS, Substitute Senate Bill 5248 was signed by the Governor on May 8th, 2007 and became a part of GMA 36.70A.700, known as the Voluntary Stewardship Program. Section 2 of the bill requires that for the period beginning May 1, 2007, and concluding July 1, 2010, counties and cities shall defer amending or adopting critical areas ordinances as they specifically apply to agricultural activities on agricultural and rural lands; and

WHEREAS, nothing in Substitute Senate Bill 5248 nullifies critical areas ordinances adopted prior to May 1, 2007, to comply with the GMA; and

WHEREAS, nothing in Substitute Senate Bill 5248 applies to the GMA compliance requirements pertaining to critical areas not associated with such agricultural activities, or limits counties or cities from enacting voluntarily measures that protect critical areas associated with agricultural activities. Counties and cities that defer amending their critical areas ordinances must review and revise these ordinances as they apply to such agricultural activities by December 1, 2011; and

WHEREAS, the GMA (36.70A.020) also requires Yakima County to consider and balance the 13 goals of the Act; and

WHEREAS, staff and the Planning Commission (PC) included the best available science in drafting revisions to the CAO; and

WHEREAS, the PC conducted a duly advertised and noticed study sessions on the proposed amendments to the CAO (TXT17-002, CAO16-08) on February 8, 2017, February 22, 2017, March 8, 2017, and March 22, 2017; and

WHEREAS, the PC conducted a duly advertised and noticed public hearing on the CAO on April 12, 2017; and

WHEREAS, the PC deliberated on the matter on May 3, 2017 and May 10, 2017; and

WHEREAS, the PC, having carefully considered the written and oral testimony of the public, agencies, recommendations from staff, changes proposed by commission members in its deliberations, did revise the proposed CAO; and

WHEREAS, on May 10, 2017, the Planning Commission, by motion and vote, unanimously approved its recommendation that the Board adopt the revised CAO; and

WHEREAS, the PC presented its Findings and Recommendation (see Exhibit 2) to the Board at a properly advertised study session on May 18, 2017; and

WHEREAS, the Yakima County SEPA Official issued a Determination of Non-significance (DNS) (SEP17-06) for the proposed edits to the CAO on April 24, 2017, which included a comment period and a retention notice on May 17, 2017; and

WHEREAS, the Board conducted a duly advertised and noticed open record public hearing on the proposed amendments to the CAO on June 13, 2017 to receive written and oral testimony on the Planning Commission's Findings and Recommendation; and

WHEREAS, all persons desiring to speak or submit evidence for the record were given the opportunity to do so; and

WHEREAS, immediately following the hearing on June 13, 2017 the Board began its legislative deliberations; and

WHEREAS, RCW 36.70.630 requires the adoption of findings of fact and statement setting forth the factors considered which justify the Board of Yakima County Commissioners action to amend the Planning Commissions recommendation; and

WHEREAS, the Board, having carefully considered the Planning Commission's Findings and Recommendation, written and oral testimony of the public and agencies, recommendations from staff, and changes proposed by the Board members during deliberations of the record, did debate issues of concern and made decisions by consensus or by vote to revise the Planning Commission's Findings and Recommendations; and

WHEREAS, the Board directed staff to prepare ordinance text changes as necessary to implement their revisions (see Exhibit 1 - Critical Areas Ordinance of Yakima County, Washington, Yakima County Code Title 16C); and

WHEREAS, the Board is now satisfied that this legislative matter has been sufficiently considered, and that the process leading to the development of the updated CAO has been open, extensive, continuous and afforded opportunities to all who wanted to participate or offer testimony; and

WHEREAS, the Board of Yakima County Commissioners further concludes that adoption and implementation of the CAO is in the public interest and essential to direct the future growth and development of Yakima County, consistent with the County's Comprehensive and meets the requirements of the Growth Management Act;

NOW, THEREFORE, the Board does hereby ordain as follows:

Section 1. Reasons for Action.

The Growth Management Act (GMA), requires all local governments to designate Critical Areas, and develop regulations for their protection (RCW 36.70A.170 (1)(d), RCW 36.70A.060 (2)). The GMA requires Yakima County to review and evaluate its comprehensive plan and development regulations every 8 years and to take legislative action, if needed, to revise them to ensure they comply with the requirements of, and time periods in, RCW 36.70A.

Section 2. Findings.

- A. Compliance with 2017 GMA Update Process. The amendments to YCC Title 16C Critical Areas Ordinance (TXT17-002, CAO16-08) adopted by this ordinance are in substantial compliance with Public Participation Plan and RCW 36.70A (the Growth Management Act, or GMA).
- B. State Environmental Policy Act (SEPA). Yakima County has complied with the environmental review process required by SEPA for the CAO update. The Yakima County SEPA Official issued a Determination of Non-significance (DNS) (SEP17-06) for the proposed edits to the CAO on April 24, 2017, which included a comment period and a retention notice on May 17, 2017.
- C. Board Changes to PC Findings and Recommendations. The Board of Yakima County Commissioners adopts the changes to YCC Title 16C Critical Areas Ordinance (TXT17-002, CAO16-08) as detailed in the Findings of Fact and Recommendations of the Planning Commission dated May 10, 2017, with modifications and shown in the Exhibit 1. YCC Title 16C shall apply to all unincorporated lands under Yakima County's land use jurisdiction, except for lands under jurisdiction of the Shoreline Management Act (RCW 90.58) and requirements of Voluntary Stewardship Program 36.70A.700 for agricultural activities conducted on agricultural and rural lands.

Section 3. Retention. To meet the requirements of Substitute Senate Bill 5248, the existing CAO, codified as YCC Title 16A shall be retained for the regulation of agricultural activities on designated agricultural and rural lands.

Section 4. Preparation of Final Comprehensive Plan Document. County staff are hereby directed to complete final preparation of CAO, correct any typographical or formatting edits, and include appropriate graphics and illustrations.

Section 5. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the resolution, or the validity of its application to any other persons or circumstances.


Section 6. Effective Date. Pursuant to the Growth Management Act (RCW 36.70A), Yakima County must publish a Notice of Adoption within 10 days after the Board's approval of this ordinance, thus starting the required 60 appeal period. Therefore, this ordinance becomes effective on the 61st day after posting of the Notice of Adoption, unless successfully appealed.

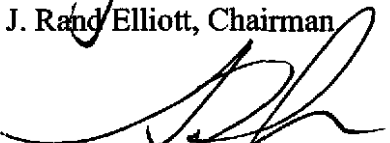
DONE this 27th day of June, 2017



Attest: Tiera Girard
Clerk of the Board




J. Rand Elliott, Chairman


Ron Anderson, Commissioner



Michael D. Leita, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

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Chapter 16C.01
GENERAL PROVISIONS

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16C.01.01 Title and Authority

Yakima County Code (YCC) Title 16C is established pursuant to RCW 36.70A.060 (Growth Management Act Natural resource lands and critical areas -- Development regulations), RCW Chapter 43.21C (State Environmental Policy Act), [RCW 86.16](#), and federal requirements for eligibility in the National Flood Insurance Program, pursuant to the Code of Federal Regulations (CFR) [44CFR, Parts 59 and 60](#). This title shall be known as the "Critical Areas Ordinance of Yakima County, Washington."

16C.01.02 Language Interpretation

Unless specifically defined in Chapter 16C.02, words, phrases and terms in this title shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application. "Shall" is mandatory; "may" is discretionary and does not impose a requirement; "should" is always advisory; "include(s)" means includes but not limited to. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural; and the plural, the singular.

16C.01.03 Purpose of Title

The purpose of Title 16C is [the following](#):

[\(1\) Designate, 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.](#)

[\(2\) to ensure to establish](#) a single, uniform system of procedures and standards ~~to~~ be applied to development within designated critical areas of unincorporated Yakima County.

16C.01.04 Intent of Title

(1) Title 16C establishes policies, standards, and other provisions pertaining to development within designated critical areas regulated under the provisions of the Growth Management Act (RCW 36.70A), and development regulated under the National Flood Insurance Program [and RCW 86.16](#). Additional purpose and intent for the protection of critical areas is provided in the chapter on each subject. Stream corridors, ~~flood hazard areas~~ [frequently flooded areas](#), wetlands, critical aquifer recharge areas, geologically hazardous areas and fish and wildlife habitat areas constitute Yakima County's critical areas. These areas are of special concern to the people of Yakima County and the state of Washington because they are environmentally

- sensitive lands, or hazardous areas, which ~~comprise~~compose an important part of the county's natural resource base. The policies, standards and procedures of this title are intended to:
- (a) Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions, particularly the functional properties of stream corridors and other hydrologically related critical areas;
 - (b) Prevent further degradation of critical areas;
 - (c) Conserve, protect and, where feasible, restore essential or important natural resources.
 - (d) Protect the public health, safety and general welfare;
 - (e) Further the goals and objectives of the Yakima County Comprehensive Plan and all of its elements;
 - (f) Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A), and the National Flood Insurance Program;
 - (g) Recognize and protect private property rights;
 - (h) Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of Adjustment, Reasonable Use provisions and Non-Conforming Use and Facility provisions;
 - (i) Recognize 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 Chapter 78.44.
- (2) In addition, the policies, standards and procedures of this title:
- (a) Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective dates of provisions in the Critical Areas Ordinance;
 - (b) Are not intended to result in an unconstitutional taking of private property;
 - (c) Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance; but rather to utilize restoration as a tool to mitigate impacts of new development;
 - (d) Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with non-regulatory tools in as balanced a manner as possible;
 - (e) Are not intended to prohibit the use of valid water rights.

16C.01.05 Applicability

- (1) Except as provided in subsections (3) ~~and (4)~~ below, the provisions of this title shall apply to any new development, construction or use within the unincorporated portion of Yakima County designated as a critical area, irrespective of parcel boundaries, outside Shoreline jurisdiction, as determined by the Shoreline Master Program (YCC Title 16D), and upon any land mapped and designated as a special flood hazard area under the National Flood Insurance Program or as a frequently flooded area designated by this title; however, this title does not apply to the situations below, except that the Flood Hazard protection provisions of Chapters 16C.05.20 through 16C.05.72 will continue to apply as determined by the applicability provision in 16C.05.20:
- (a) Within critical areas designated by this title or amendments that may later be adopted, there may exist lots, structures and uses which were lawfully established before this title was initially adopted, amended or readopted, as provided below, but which would be

subsequently prohibited, regulated or restricted under this ordinance. It is the intent of this title to permit these pre-existing legal non-conformities to continue without requirement to change said non-conformity until such time as conformance is required through permits for development in the future. The adoption and amendment dates of the relevant regulations are provided below;

i) Critical Areas Ordinance adopted July 12, 1994;

ii) Critical Areas Ordinance amended October 1, 1995 ~~(effective date);~~

iii) Flood Hazard Ordinance adopted June 5, 1985;-

iv) Critical Areas Ordinance amended December 15, 2007 (GMA Update);

~~iii~~v) Critical Areas Ordinance amended June 30, 2017 (GMA Update).

(b) Critical areas on federally owned lands are not subject to this title;

(c) Forest practices, as defined by this title, carried out under a Washington Department of Natural Resources Forest Practice permit are not subject to this title, except those that involve a conversion of forest land to a non-forestry use, involve a conversion option harvest plan, or take place on lands platted after January 1, 1960;

(d) Livestock grazing on publicly owned land, when carried out under an agreement that includes a resource management plan that will be monitored by a public entity is not subject to this title;

(e) Changing agricultural crops within an existing farming operation is not considered new development, construction or use, provided that the existing area under agricultural production is not extended further into a vegetative buffer identified under 16C.06.16, and provided that the natural contour of the land subject to this title is not altered by excavation and filling;

(f) Minor, temporary or transient activities, including those of a recreational nature, that do not alter the environment or require a dedicated staging area, use area, or route are not subject to this title, and including temporary signs (election, sale, rent, etc.);

(g) Critical Areas within the exterior boundaries of the Yakama Nation that are located within the designated Closed Areas or not under County jurisdiction as a result of the Supreme Court decision COUNTY OF YAKIMA et. al. v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION (1991) are not subject to this title;

(h) Mining, as defined by this title, that is carried out under a Washington Department of Natural Resources reclamation permit is not subject to, the geologically hazardous areas provisions of this title for erosion hazard areas, oversteepened slope hazard areas, landslide hazard areas and suspected geologic hazard areas. Other critical areas provisions continue to apply.

(2) Other rules and regulations, including the Yakima County Unified Land Development Code (YCC Title 19), Shoreline Master Program (YCC Title 16D), and the Building and Construction Ordinance (YCC Title 13), shall remain in full force and effect as they apply to a designated critical area. Wherever the requirements of Title 16C conflict with the requirements of the applicable Zoning Ordinance, the Subdivision Ordinance or any other lawfully adopted County rules or regulations, the most restrictive standards shall govern.

(3) Yakima County has opted into the Voluntary Stewardship Program (VSP), an alternative to regulatory protection of critical areas on agricultural lands. A working group comprised of agricultural groups, environmental groups, and the Yakama Nation is developing a work plan that identifies goals and benchmarks to protect critical areas while maintaining the viability of agriculture through voluntary, incentive-based measures (WAC 365-191-010(1)).

- a) If the work plan developed by the VSP working group is approved by the Washington State Conservation Commission, the provisions or standards of this title will not apply to agricultural activities, defined as agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation (RCW 36.70A.703(1) and RCW 90.58.065).
- b) If the work plan is not approved by the Washington State Conservation Commission, or fails to meet goals and benchmarks, the provisions and policies of the title will apply to agricultural activities (RCW 36.70A.735).

~~(2) Due to the requirements of Substitute Senate Bill 5248, the provisions or standards of this title shall not apply to agricultural activities in certain areas, as defined below. Such agricultural activities are still subject to the requirements of YCC Title 16A as adopted October 1, 1995.~~

~~(a) "Agricultural activities" means agricultural uses and practices currently existing or legally allowed on rural land or agricultural land designated under RCW 36.70A.170 including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, when the replacement facility is no closer to a critical area than the original facility; and maintaining agricultural lands under production or cultivation.~~

~~(3) Due to the requirements of Engrossed Substitute House Bill (ESHB) 1933, the provisions of this title shall apply to any new development, construction or use within the unincorporated portion of Yakima County designated as a critical area inside Shoreline jurisdiction from the effective date of this title until the date of the next subsequent update of the Shoreline Master Program (anticipated to be YCC Title 16D), as approved by the Washington Department of Ecology per RCW 90.58.090. After the Shoreline Master Program (SMP) is approved, critical areas within Shoreline jurisdiction shall be governed by the SMP.~~

16C.01.06 Science and Protection of Anadromous Fish

This title has been updated consistent with the requirements for:

- (1) Using the best available science as required by RCW 36.70A.172 (Critical areas -- Designation and protection -- Best available science to be used) and WAC 365-195-900 through WAC 365-195-920 (BAS Background and purpose);
- (2) Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish (salmon, steelhead, pacific lamprey, etc.) and their habitat, as

required by RCW 36.70A.172 (Best available science to be used) and WAC 365-195-925 (Criteria for demonstrating "special consideration" has been given to anadromous fisheries).

16C.01.08 Administrative Authority

1) The Yakima County Public Services Department - Planning Division shall be responsible for the general administration of this title. The Planning Division Manager or the Manager's designee shall serve as the Administrative Official of this title, except as noted in Chapters 16C.05.20 through 16C.05.72. The Administrative Official shall establish procedures for implementation of this title.

(a) Where the provisions of these regulations may be unclear in special circumstances, or where judgment must be made because of the nature of the language used, the Administrative Official shall make such interpretations. A separate record of all interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the Administrative Official for its effect or influence on the pending action.

(b) A written request for interpretation of any provision of this title, or any rule or regulation adopted pursuant to this title may be submitted to the Administrative Official. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. Interpretations shall be processed in accordance with YCC Title 16B.03.070.

16C.01.09 Severability

If any provision of the ordinance codified in this title, or its application to any person or legal entity or circumstances is held to be invalid, the remainder of said ordinance or the application of the provision to other persons or legal entities or circumstances shall not be affected.

Chapter 16C.02
DEFINITIONS

16C.02.001 Definitions Generally

(1) Whenever the words and terms set forth in this chapter appear in this title, they shall be given the meaning attributed to them by this chapter. References to specific provisions of YCC Title 13 and the International Building Codes, statutes and Washington Administrative Code provide greater detail for purposes of administering this title.

(2) Definitions listed in this chapter shall be applied to all critical areas, including Flood Hazard Areas, unless the definition itself identifies the term as applying to Flood Hazard administration, in which case the definition only applies to that situation.

16C.02.005 Abutting

"Abutting" means bordering upon, to touch upon, or in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

16C.02.010 Adjacent

"Adjacent" means to be nearby and not necessarily abutting.

16C.02.012 Administrative Official

"Administrative Official" means the duly appointed Planning Division Manager of the Public Services Department, or his designee, or the relevant decision maker identified in YCC Title 16B (Project Permit Administration); synonymous with "administrator" or "director."

16C.02.020 Agricultural Activities

"Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

16C.02.025 Alluvial fan

"Alluvial fan" is a low, outspread, relatively flat to gently sloping feature, shaped like an open fan or a segment of a cone, deposited by a stream at the place where it issues from a valley upon a plain or broad valley, or where a tributary stream is near or at its junction with the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

16C.02.030 Applicant

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development, construction or use on a site.

16C.02.035 Aquifer

"Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

16C.02.040 Critical Aquifer Recharge Area

"Critical Aquifer Recharge Area" means an area with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water.

16C.02.042 Bank

"Bank" means the land surface above the ordinary high water mark that abuts a body of water and contains it to the bankfull depth.

16C.02.043 Bankfull depth

"Bankfull depth" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section.

16C.02.044 Base Flood

"Base Flood" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the flood having a one percent chance of being equaled or exceeded in any given year. (Ref. IBC 1612.2)

16C.02.045 Base Flood Elevation

"Base flood elevation" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). (Ref. IBC 1612.2)

16C.02.046 Basement

"Basement" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 1612.2)

16C.02.055 Bed

"Bed" means the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

16C.02.060 Bedrock

"Bedrock" means in-place solid rock.

16C.02.065 Berm

"Berm" means a mound of earth material used as a protective barrier or to control the direction of water flow.

16C.02.067 Best Management Practices

"Best Management Practices" or "BMPs" means schedules of activities, practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in a combination prevent or reduce adverse impacts to the environment.

16C.02.070 Bioengineering

"Bioengineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

16C.02.075 Breakwater

"Breakwater" means a fixed or floating off-shore structure that protects the shore from wave action or currents.

16C.02.080 Bulkhead

"Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

16C.02.085 Channel

"Channel" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

16C.02.090 Channel Migration Zone

"Channel Migration Zone" is the area where the stream channel is likely to shift or migrate to over time.

16C.02.092 Chief Building Official

"Chief Building Official" or "building official" means the manager of the Building and Fire Safety Division of the Department of Public Services or designee.

16C.02.095 Classification

"Classification" means the definition of value and hazard categories to which critical areas and natural resource lands will be assigned.

16C.02.100 Clearing

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

372
373 **16C.02.110 Compaction**

374 "Compaction" means compressing soil through some mechanical means to make it denser.
375

376 **16C.02.115 Confinement Feeding Operation**

377 "Confinement feeding operation" means the use of structures or pens for the concentrated feeding
378 or holding of animals or poultry, including but not limited to horses, cattle, sheep, or swine. This
379 definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens,
380 poultry and/or egg production facilities and fur farms, but does not include animal husbandry and
381 normal farming practices.
382

383 **16C.02.120 Construction**

384 "Construction" means the assembly, placement, or installation of structures, roadways,
385 transmission lines, and other improvements within a project site.
386

387 **16C.02.122 Critical Areas**

388 "Critical Areas" include the following areas and ecosystems:

- 389 a) Wetlands;
390 b) Areas with a critical recharging effect on aquifers used for potable water;
391 c) Fish and wildlife habitat conservation areas;
392 d) Frequently flooded areas; and
393 e) Geologically hazardous areas.
394

395 **16C.02.125 Designated**

396 "Designated" means formal legislative action to identify and describe a critical area.
397

398 **16C.02.130 Department**

399 "Department" means the Yakima County Public Services Department, Planning Division.
400

401 **16C.02.135 Development**

402 "Development" means the division of land into lots or parcels and any human-made change to
403 improved or unimproved real estate, including but not limited to buildings or other structures,
404 mining, dredging, filling, grading, clearing, paving, excavation or drilling operations, storage of
405 equipment or materials, or any other activity which results in the removal of vegetation or in the
406 alteration of natural site characteristics. ~~"Development" means the division of land into lots or~~
407 ~~parcels in accordance with the county Subdivision Ordinance, and any clearing, excavation,~~
408 ~~dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or~~
409 ~~temporary modification of a site up to, but not including, construction as defined in this chapter.~~
410 ~~For the purpose of Chapters 16C.05.20 through 16C.05.72, "development" also means any~~
411 ~~manmade change to improved or unimproved real estate located within the special flood hazard~~
412 ~~area, including but not limited to buildings or other structures, mining, dredging, filling, grading,~~
413 ~~paving, excavation, drilling, temporary or permanent storage of equipment and works defined in~~
414 ~~this chapter. (Ref. IBC-G 201.2)~~
415

416 **16C.02.140 Dike**

"Dike" means an embankment to prevent flooding by a stream or other water body. A dike is also referred to as a levee.

16C.02.145 Dock

"Dock" means a structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

16C.02.150 Dredging

"Dredging" means removal of earth from the bed of a stream, lake, or pond for the purpose of increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations.

16C.02.160 Earth Material

"Earth material" means any rock, natural soil, or combination thereof.

16C.02.170 Enhance

"Enhance" means to strengthen any of the basic functional properties listed in Section 16C.06.05 that exist but do not perform at optimum efficiency. "Optimum" refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

16C.02.175 Ephemeral Stream

"Ephemeral stream" means a stream that flows only in response to precipitation with no groundwater association, usually less than 30 days per year. The lack of any groundwater association results in a lack of a distinctive riparian vegetation compared to the surrounding landscape.

16C.02.180 Erosion

"Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

16C.02.190 Excavation

"Excavation" means the mechanical removal of earth material.

16C.02.200 Fill

"Fill" means the addition of any material, such as (by way of illustration) earth, clay, sand, rock, gravel, concrete rubble, wood chips, bark, or waste of any kind, which is placed, stored or dumped upon the surface of the ground resulting in an increase in the natural surface elevation. The physical structure of a shore stabilization structure shall not be considered fill. However, fill placed behind the structure is considered fill. Stream bed manipulation for irrigation diversions shall not be considered fill.

16C.02.203 Fish and Wildlife Habitat Conservation Areas

"Fish and wildlife habitat conservation areas" are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered,

may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. These areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. Natural watercourses such as streams and rivers that carry irrigation water are not considered part of these artificial features.

16C.02.205 Flood

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

16C.02.206 Flood Hazard Permit

"Flood hazard permit" means written approval applied for and obtained in accordance with such rules and regulations as are established under this title.

16C.02.207 Flood Insurance Rate Maps

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. Preliminary updated Flood Insurance Rate Maps are maps that have been accepted by FEMA, but are not yet effective.

16C.02.208 Flood Insurance Study

"Flood insurance study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

16C.02.209 Floods of Record

"Floods of Record" are areas identified as inundated during the flood of record, identification of areas subject to flooding, or stream systems where the path of floodwaters can be unpredictable.

16C.02.210 Floodplain

"Floodplain" means a land area adjoining a river, stream, watercourse or lake which has been determined likely to flood. The extent of the floodplain may vary with the frequency of flooding being considered. "Flood plain" is synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year.

16C.02.215 Flood-prone

"Flood-prone" means a land area for which a floodway and floodplain has not been determined with respect to any specific flood frequency, but for which the potential for flooding can be identified by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.

16C.02.216 Flood-proofing

"Flood-proofing" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to lands, water and sanitary facilities, structures and contents of buildings.

16C.02.220 Floodway

"Floodway" means the regular channel of a river, stream, or other watercourse, plus the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

16C.02.225 Floodway Fringe

"Floodway fringe" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means that portion of a floodplain which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

16C.02.230 Forest Land

"Forest land" means land primarily devoted to forest practices activities.

16C.02.240 Forest Practices

"Forest practices" means any activity conducted on or directly pertaining to forestland and relating to growing, harvesting, or processing timber, including but not limited to:

- a) Road and trail construction, including forest practices hydraulic projects that include water crossing structures, and associated activities and maintenance;
- b) Harvesting, final and intermediate;
- c) Pre-commercial thinning;
- d) Reforestation;
- e) Fertilization;
- f) Prevention and suppression of diseases and insects;
- g) Salvage of trees; and
- h) Brush control.

~~"Forest practices" means activities conducted under federal forest practices approval or under a Forest Practices permit reviewed and approved by the Washington Department of Natural Resources pertaining to the management of forest land, including growing, managing, harvesting, and interim storage of merchantable timber for commercial value, as well as incidental activities reviewed under federal or state approval, such as road construction and maintenance (including bridges) and mining activities.~~

16C.02.245 Frequently Flooded Areas

"Frequently Flooded Areas" are defined by:

- a) Flood Insurance Rate Maps (FIRM) from FEMA;
- b) Preliminary updated FIRM maps from FEMA;
- c) Floods of record; and
- d) Mapped channel migration zones; and
- e) Flood-prone.

16C.02.250 Grade

"Grade" means the vertical location of the ground surface. "Natural grade" is the grade as it exists or may have existed in its original undisturbed condition. "Existing grade" is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification. "Rough grade" is a stage where grade conforms approximately to an approved plan. "Finish grade" is the final grade of the site which conforms to an approved plan.

16C.02.255 Grading

"Grading" means any excavation, filling, or combination thereof.

16C.02.260 Groundwater

"Groundwater" means water that occurs beneath the land surface, also called subsurface water or subterranean water. Groundwater includes water in the zone of saturation of a water-bearing formation.

16C.02.061 Hazardous Materials

"Hazardous materials" means any material, either singularly or in combination, that is a physical or health hazard as defined and classified in the International Fire Code, whether the materials are in usable or waste condition; any material that may degrade groundwater quality when improperly stored, handled, treated, used, produced, recycled, disposed of, or otherwise mismanaged; any hazardous waste, hazardous substance, dangerous waste, or extremely hazardous waste that is a physical or health hazard as defined or classified in Chapter 70.105 RCW and Chapter 173-303 WAC, whether the materials are in usable or waste condition; and petroleum or petroleum products that are in a liquid phase at ambient temperatures, including any waste oils or sludge.

16C.02.263 Hydrologically Related Critical Areas (HRCA)

"Hydrologically related critical areas (HRCA)" include all those areas identified in Section 16C.06.03, within Yakima County that are important and deserving of protection by nature of their value for the functional properties found in Section 16C.06.05.

16C.02.266 Hyporheic

"Hyporheic" means a groundwater area adjacent to and below channels where water is exchanged with channel water and water movement is mainly in the downstream direction.

16C.02.270 Intermittent Streams

"Intermittent stream" means a stream which flows only during certain times of the year, with inputs from precipitation and groundwater, but usually more than 30 days per year. The groundwater association generally produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

16C.02.275 Lake or pond

"Lake or pond" means ~~at~~ any inland body of standing water. The term includes the reservoir or expanded part of a river behind a dam, but excludes a man-made body of water created for surface mining purposes.

16C.02.281 Lowest Floor

Lowest floor" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title.

16C.02.282 Manufactured Home

"Manufactured home" means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) and Yakima County Code Titles 13 and 19 separately define and distinguish between "manufactured home" and "mobile home" according to federal or state construction codes for such dwellings, the term "manufactured home" shall include "mobile home" for regulatory purposes under this chapter. The term shall not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law. For floodplain management purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and other similar vehicles shall be considered manufactured homes when placed on a site for greater than one hundred eighty days.

16C.02.283 Manufactured Home Park or Subdivision

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale in accordance with YCC Title 19.

16C.02.284 Manufactured Home Park or Subdivision, Existing

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 1, 1995, the effective date of these floodplain management regulations.

16C.02.285 Minerals

"Minerals" means gravel, sand and metallic and non-metallic substances of commercial value.

16C.02.290 Mining

"Mining" means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation (Section 16C.06.20).

16C.02.295 Native

"Native" means indigenous to or originating naturally within Yakima County.

16C.02.300 Natural Conditions

"Natural conditions" means those conditions which arise from or are found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

16C.02.302 New Construction

"New construction" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means structures for which the start of construction commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program. October 1, 1995, the effective date of the ordinance codified in Title 16A shall be used for defining the term "new construction" as it applies to all other Critical Areas requirements established under Title 16A by Ordinance 8-1995.

16C.02.303 Nonconforming Structure

"Nonconforming structure" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means a structure which was legally constructed prior to October 1, 1995, the effective date of Title 16A, but which would not be permitted as a new structure under the terms of this title because the structure is not in conformance with the applicable elevation and/or flood-proofing requirements.

16C.02.304 Nonconforming Use

"Nonconforming use" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the use of a building, structure or land which was lawfully established, existing and maintained at the effective date of provisions of this title but which, because of the application of this title to it, no longer conforms to the use or applicable elevation and/or flood-proofing requirements of this title and which would not be permitted as a new use under the terms of this title.

16C.02.305 Ordinary High Water Mark (OHWM)

"Ordinary high water mark (OHWM)" means that mark on lakes and streams which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

16C.02.310 Perennial Stream

"Perennial stream" means a stream that flows year round in normal water years. Groundwater is a source of much of the water in the channel.

16C.02.320 Project Site

"Project site" means that portion of any lot, parcel, tract, or combination thereof which encompasses all phases of the total project proposal.

16C.02.321 Qualified Professional

"A qualified professional" shall meet the following criteria:

- (1) A qualified professional for wetlands must have a bachelor's degree or higher in biology,

ecology, soil science, botany, or a closely related field, and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.

(2) A qualified professional for stream corridors must have a bachelor's degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years' professional experience related to the subject species/habitat type.

(3) A qualified professional for geologically hazardous areas and preparation of geo-technical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.

(4) A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.

(5) A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.

(6) A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.

(7) A qualified professional for economic studies must have a bachelor's degree or higher in economics or business administration with 5 years of professional experience. The five-year standard shall be waived for professionals with a PhD degree.

(8) A qualified professional for habitat assessments and habitat management plans must have a bachelor's degree or higher in biology and professional experience related to the subject species or habitat.

(9) Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined to be acceptable to the Administrative Official.

16C.02.322 Recreation Vehicle

"Recreation vehicle" means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

16C.02.325 Restore

"Restore" means to re-establish the basic functional properties listed in Section 16C.06.05 that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions [nor to limit flood authorities ability to make improvements necessary to alleviate flood risk, which may not allow for certain restoration activities or methods.](#)

16C.02.330 Revetment

"Revetment" means a facing placed on a bank or bluff to protect a slope, embankment, or shore structure against erosion by wave action or currents.

739 **16C.02.335 Riparian ~~vegetation~~Areas**

740 “Riparian areas are transitional between terrestrial and aquatic ecosystems and are distinguished
741 by gradients in biophysical conditions, ecological processes, and biota. They are areas through
742 which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They
743 include those portions of terrestrial ecosystems that significantly influence exchanges of energy
744 and matter with aquatic ecosystems (i.e., a zone of influence).”~~“Riparian Vegetation” means the~~
745 ~~terrestrial vegetation that grows beside rivers, streams, and other freshwater bodies and that~~
746 ~~depends on these water sources for soil moisture greater than would otherwise be available from~~
747 ~~local precipitation.~~

748
749 **16C.02.340 Riprap**

750 "Riprap" means a layer, facing, or protective mound of stones randomly placed to prevent erosion,
751 scour, or sloughing of a structure or embankment; also the stone used for this purpose.

752
753 **16C.02.345 Scour**

754 "Scour" means the removal of underwater material by waves and currents, especially at the base
755 or toe of a shore stabilization structure.

756
757 **16C.02.355 Shoreline**

758 "Shoreline," as used in the title, means those water areas, the associated features, and the land areas
759 within Yakima County that are subject to the State Shoreline Management Act, especially as
760 defined in RCW 90.58.030 (definitions), and as further identified in Section 16D.10.03 (Shoreline
761 Jurisdiction) of the Shoreline Master Program (YCC Title 16D).

762
763 **16C.02.360 Shore Stabilization**

764 "Shore stabilization" means the construction or modification of bulkheads, retaining walls, dikes,
765 levies, riprap, breakwaters, jetties, groins, weirs, and other structures along the shore, for the
766 purpose of controlling stream undercutting, stream erosion or lake shore erosion.

767
768 **16C.02.362 Shrub-steppe**

769 “Shrub-steppe”~~:- A~~ means a non-forested vegetation type consisting of one or more layers of
770 perennial bunchgrasses and a conspicuous but discontinuous layer of shrubs (see Eastside Steppe for
771 sites with little or no shrub cover). In areas with greater precipitation or on soils with higher
772 moisture-holding capacity, shrub-steppe can also support a dense layer of forbs (i.e., broadleaf
773 herbaceous flora). Shrub-steppe contains various habitat features, including diverse topography,
774 riparian areas, and canyons. Another important component is habitat quality (i.e., degree to which a
775 tract resembles a site potential natural community), which may be influenced by soil condition and
776 erosion and the distribution, coverage, and vigor of native shrubs, forbs, and grasses. Sites with less
777 disturbed soils often have a layer of algae, mosses, or lichens.

778
779
780 **16C.02.365 Slope**

781 "Slope" means an inclined ground surface the inclination of which is expressed as a ratio of
782 horizontal distance to vertical distance.

783
784 **16C.02.366 Solid Waste**

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, wood waste, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. Solid waste shall not include earth, clay, sand or gravel.

16C.02.367 Special Flood Hazard Areas

"Special flood hazard area" means the land in the floodplain identified by the Federal Emergency Management Agency that is subject to a one-percent or greater chance of flooding in any given year; commonly known as the 100-year floodplain.

16C.02.368 Start of Construction

"Start of construction" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. "Permanent construction" does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage, or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

16C.02.370 Stream

"Stream" means water contained within a channel, either perennial, intermittent or ephemeral. Streams include natural watercourses modified by man, for example, by stream flow manipulation, channelization, and relocation of the channel. They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses.

16C.02.380 Stream Corridor

"Stream corridor," as used in this title, means those features listed and described in Section 16C.06.03 and related appendices to this title.

16C.02.390 Structure

"Structure" means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height. The term also includes gas or liquid storage tanks when located principally above ground.

16C.02.395 Substantial Improvement

"Substantial improvement" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) Before the damage occurred to a structure that has been damaged and is being restored.

For the purposes of this definition "substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The total value of all improvements to an individual structure undertaken subsequent to October 1, 1995, the effective date of Title 16A, shall be used to define "substantial improvement" for said structure. The term does not, however, include either:

- (1) Any project for improvement to a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register or Historic Places or a state inventory of historic places.

16C.02.400 Use

"Use" means the activity to which land or a building is devoted and for which either land or a building is or may be occupied or maintained.

16C.02.415 Vegetative Buffer or Buffer

"Vegetative buffer or Buffer" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of a stream corridor, wetland and other hydrologically related critical areas as set forth in Chapter 16C.06.05 (Functional Properties) and 16C.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not always exist due to degradation of the vegetative buffer before establishment of this title, or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

16C.02.425 Wetland

"Wetland" or "wetlands" means ~~that~~ areas that are naturally inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances ~~does~~ support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street,

or highway. ~~However, w~~etlands may include those artificial wetlands ~~specifically~~ intentionally created from non-wetland areas to mitigate conversion of wetlands.

16C.02.430 Wildlife

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

16C.02.435 Wildlife Habitat

"Wildlife habitat" means areas which, because of climate, soils, vegetation, relationship to water, location and other physical properties, have been identified as of critical importance to maintenance of wildlife species.

16C.02.440 Works

"Works" means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved road, abutments, projection, excavation, channel rectification, or improvement attached to, or affixed upon, the realty.

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General Provisions

16C.03.01 Critical Area Development Authorization Required

- (1) No new development, construction or use shall occur within a designated critical area without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in Section 16C.03.05 (Minor Activities Allowed Without a Permit).
- (2) With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within a designated critical area shall be processed according to the provisions of this chapter and the Project Permit Administration Ordinance (YCC Title 16B).
- (3) Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by Yakima County. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.
- (4) Permits issued in accordance with this title shall run with the land and conveyed to the applicant, their grantees, and assignees.
- (5) Coordination with Other Jurisdictions.
 - (a) Where all or a portion of a standard development project site is within a designated critical area and the project is subject to another local, state or federal development permit or authorization, then the Administrative Official shall determine whether the provisions of this title can be processed in conjunction with, and as part of, that local, state or federal development permit or authorization, or whether a separate critical area development authorization application and review process is necessary. The decision of the Administrative Official shall be based upon the following criteria:
 - i) The nature and scope of the project and the critical area features involved or potentially impacted;
 - ii) The purpose or objective of the permit or authorization and its relationship to protection of the critical area;
 - iii) The feasibility of coordinating the critical area development authorization with the permitting agency;
 - iv) The timing of the permit or authorization.
 - (b) When a determination has been made that provisions of this title can be handled through another applicable development permit or authorization process, project proponents will be required to provide any additional site plans, data and other information necessary as part of that process to fully evaluate the critical area project and ensure its compliance with this title. The Administrative Official's decision on the critical area development authorization shall be coordinated to coincide with other permits and authorizations.

Inquiry and Early Assistance

16C.03.02 Critical Area Identification Form and Critical Area Report Requirements.

- (1) Prior to the review or consideration of any proposed development, construction or use, except those provided under Applicability (16C.01.05), and Minor Activities Allowed Without a Permit (16C.03.05), the County shall consider available information to determine if a critical area is likely to be present. The presence of a critical area found on the paper and electronic

maps within or adjacent to the property proposed for development is sufficient foundation for the Administrative Official to require preparation of a critical area identification form, provided by the department, and a preliminary site plan. This critical area identification form and preliminary site plan may be one piece of information used to analyze how a critical area could be affected by a development proposal. To the extent possible, all critical area features must be identified on the critical area identification form and shown on the preliminary site plan prior to the Administrative Official determining whether the development is subject to this title.

- (2) Upon receipt of a critical area identification form and site plan, the Administrative Official will typically conduct a site examination to review critical area conditions on site. The Administrative Official shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner for the site examination during any proposal review, restoration, emergency action, or monitoring period.
- (3) The Administrative Official shall review available information pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal. If so, a more detailed critical area report shall be submitted in conformance with Section 16C.03.17 (Critical Areas Reports) and Section 16C.03.18 (Supplemental Report Requirements for Specific Critical Areas), except as provided below:

- (a) **No critical areas present.** If the Administrative Official is able to sufficiently determine that a critical area does not exist within or adjacent to the project area, then a critical area report is not required;
- (b) **Critical areas present, but no impact.** If the Administrative Official is able to determine the existence, location and type of critical area sufficiently to indicate that the project area is not within or adjacent to the critical area and that the proposed activity is unlikely to degrade the functions or values of the critical area, then the Administrative Official may waive the requirement for a critical area report. A summary of the determination shall be included in any staff report or decision on the permit or review;
- (c) **Critical areas may be affected by proposal.** If the project area is within or adjacent to a critical area or buffer the Administrative Official may waive the requirement for a critical areas report if:
- i) The Administrative Official is sufficiently able to determine the existence, location and type of the critical area;
 - ii) The project is of a small scale ~~disturbs less than an acre, excluding access and utilities,~~ or is uncomplicated in nature, such that a specialist is not needed to identify impacts and mitigation. Work within a wetland, ~~or~~ stream channel, or a vegetative buffer would generally not meet this provision;
 - iii) The applicant agrees to provide mitigation that the Administrative Official deems adequate, with consultation from resource agencies, to mitigate for anticipated impacts. Restoration of degraded areas may serve as mitigation; and,
 - iv) A summary of the determination shall be included in any staff report or decision on the permit or review.
- (d) If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

- (e) As guidance on the practical application of the requirement for critical areas reports, reports will generally fall into the following groups based on increasing complexity and cost of the report:
- i) Determining the absence of a critical area (sometimes resulting when initial indicators show the likely presence of a critical area);
 - ii) Determining the existence, location and type of a critical area;
 - iii) Determining impacts of an encroachment on a critical area and general mitigation measures;
 - iv) Developing a compensatory mitigation plan for replacement or mitigation of lost wetland or stream channel area.

16C.03.03 Pre-application Conference

Any new development, construction or use falling under the provisions of this title shall be subject to a pre-application conference, except that project review for flood hazards shall follow the pre-application requirements established to administer Chapters 16C.05.20 through 16C.05.72 (Flood Hazard Areas). The department shall schedule a pre-application conference for as soon as is reasonably possible to allow attendance by the project proponent and necessary staff. To assist in project review and discussion, prior to the pre-application conference, the project proponent must submit a preliminary site plan showing the nature and scope of the proposed project along with any existing features of the property having a relationship to the project. The pre-application conference is intended to allow the Administrative Official to:

- (1) Establish the scope of the project and the critical area features involved or potentially impacted;
- (2) Consider the degree to which the project may affect or impair a designated critical area and identify potential concerns that may arise;
- (3) Identify other permits and authorizations which the project proponent may need to obtain;
- (4) Determine whether the project will be processed through the development authorization procedures of this title or coordinated through the review and approval procedures of another development permit or authorization required of the project from Yakima County;
- (5) Provide the proponent with resources and technical assistance (such as maps, scientific information, other source materials, etc.) to assist the proponent in meeting the provisions of this title and any applicable rules and regulations of other agencies and jurisdictions;
- (6) Determine whether there is a need for a preliminary site assessment or a technical assistance conference to better define the critical area issues and alternatives;
- (7) Determine whether the project requires a permit, and what type of permits or reviews may be needed. Final determination of necessary permits will be made based on the project design and submittal materials;
- (8) Consider whether a preliminary site assessment should be scheduled in the field to determine the applicability of the development standards of this title to the project, based on information contained in the preliminary site plan.

16C.03.04 Technical Assistance Conference

If requested by the project proponent or otherwise determined necessary, the department will arrange a meeting of representatives of those agencies and organizations with expertise, interest, or jurisdiction in the project. In conjunction with the invitation to attend the technical assistance conference, the department will provide the potential participants with a project summary compiled from the pre-application conference. The technical assistance conference may also

involve a preliminary site assessment, if it is determined that resolution of issues related to the project can be achieved through an on-site review. The purpose of the technical assistance conference will be to:

- (1) Confirm and define the requirements of any other applicable local, state or federal regulations;
- (2) Clarify any identified procedural or regulatory conflicts and define the alternative courses of action available to the applicant in addressing project requirements;
- (3) Determine whether compliance with other existing statutes and regulations will adequately address the provisions of this title;
- (4) Provide the proponent with guidance, available data and information that will assist in complying with the provisions of this title and other ordinances and regulations;
- (5) Provide the proponent with guidance concerning project modifications or site enhancements that would eliminate or minimize impacts to the critical area;
- (6) Provide the proponent with alternatives for securing data, information, or assistance necessary to the project but not available through the pre-application conference;
- (7) Determine whether a critical area report is necessary, and if so, the qualifications, skills and expertise required of a consultant to perform the special study.

Abbreviated Review Alternatives

16C.03.05 Minor Activities Allowed without a Permit.

- (1) The following activities are included under 16C.01.05(1) (Applicability) and are allowed without a permit:
 - (a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffer. Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls, are not covered in this provision and are subject to review;
 - (b) Minor maintenance and/or repair of lawfully established structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing replacement, re-roofing, etc. Cleaning-Maintaining canals, ditches, drains, wasteways, etc. without expanding their original configuration is not considered additional earthwork. Repair of levees operated by the Yakima County Flood Control Zone District, as long as the original dimensions and location are maintained, is not considered additional earthwork. as long as the eAll cleared materials ~~are~~ shall be placed outside the stream corridor, wetlands, and buffers;
 - (c) Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education or scientific research;
 - (d) Creation of unimproved private trails that do not cross streams or wetlands that are less than two (2) feet wide and do not involve placement of fill or grubbing of vegetation;
 - (e) Planting of native vegetation;
 - (f) Noxious weed control outside vegetative buffers identified in Chapter 16C.06.16, except for area wide vegetation removal/grubbing;

- (g) Noxious weed control within vegetative buffers, if the criteria listed below are met. Control methods not meeting these criteria may still apply for a development authorization as applicable:
- i) Hand removal/spraying of individual plants only;
 - ii) No area wide vegetation removal/grubbing.
- (h) Agricultural and other accessory uses or structures that maintain the existing natural vegetation (rangeland, grazing, stock fences, outdoor recreation, etc.).
- ~~(h)~~(i) The restoration of critical areas for habitat restoration projects that do not include excavation or fill.

16C.03.10 Mitigation requirements

- (1) All developments shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:
- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
 - (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 - (c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
 - (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
 - (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
 - (f) Monitoring the impact and taking appropriate corrective measures.
- (2) Mitigation for individual actions may include a combination of the above measures.
- (3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved Mitigation Plan. Mitigation shall not be implemented until after approval of the Mitigation Plan.
- (4) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. When necessary, mitigation may be provided that is out-of-kind and/or off-site.

Review Process

16C.03.11 Application Submittal

- (1) Application for a development authorization under this title shall be made on forms provided by the Department. The application submittal shall include a site plan drawn to scale showing:
- (a) the actual shape and dimensions of the property site to be used;
 - (b) existing and proposed structures;
 - (c) excavation, fill, drainage facilities, topography, slope, and;
 - (d) such other information as is needed to determine the nature and scope of the proposed development, including the maximum extent of the project site with respect to construction, excavation, equipment and material storage, and other project related work.

- (2) The site plan should also show the location of all critical areas, such as those identified in Sections 16C.03.02 (Critical Areas Identification Form and Critical Areas Reports) and 16C.03.17 (Critical Areas Report Requirements), include all required critical areas reports prepared in conformance with 16C.03.17, and include the permit information required either in YCC Title 16B (Project Permit Administration) or in Chapter 16C.05.44 (Flood Hazard Protection Administration), as appropriate.
- (3) To be accepted as complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this title or requested on the basis of the pre-application conference (16C.03.03), or technical assistance conference (16C.03.04).

16C.03.12 Determination of Review Process

- (1) The Administrative Official shall determine from the application submittal, and other available information what type of permit or review is required under this title. The Administrative Official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing of any application needs. Available information used in this determination may include:
- (a) critical areas identification form;
 - (b) pre-application conference information;
 - (c) technical assistance conference information.
- (2) Specific information on when a permit or review is required, its review process type and review criteria are found in the section for each permit or review. However, a brief description of each type of permit or review is provided in Table 3-1 below. Some permits or reviews are general and all projects will have a general review. Some permits are more specialized and apply only in specific cases or situations. More than one permit or review may be needed for a project.

Table 3-1

General Permits or Reviews
Standard Development. Standard development projects include any development not subject to RCW Chapter 90.58, the Shoreline Management Act.
Specific Permits
Adjustment. Administrative Adjustments are used outside Shoreline jurisdiction when a project needs to reduce or adjust a development standard.
Non-conforming Use or Facility Alteration. Non-conforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.
Minor revisions to an Existing Permit. Minor Revisions to an Existing Permit allow simplified review of certain changes to a project that has previously received a permit.
Reasonable Use Exceptions. Reasonable Use Exceptions provide an alternative to landowners when all reasonable use of a property has been prohibited.
Flood Hazard Permit. A Flood Hazard Permit is required for activities within floodplains. It is different in that it has special administrative provisions, and may include many of the specific permit types noted above within it, which are described in Chapters 16C.05.20 through 16C.05.72. It is focused mainly on construction methods, but may include site design to minimize impacts to adjacent properties or resources, or to locate the proposed development in areas where depth and velocity of floodwaters during the base flood do not exceed the current standards for construction of human occupied structures or safe access.

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1185 **16C.03.13 Development Authorization – Review Procedure**

1186 Upon submittal and acceptance of a completed development authorization application, the
1187 Administrative Official shall process and review the application as follows, except that permits or
1188 reviews required for critical areas under Chapters 16C.05.20 through 16C.05.72 (Flood Hazard)
1189 shall be processed using the permit development standards, approval criteria and other provisions
1190 established in Chapters 16C.05.20 through 16C.05.72.

- 1191 (1) Development authorizations shall be processed consistent with review procedures provided in
1192 YCC Title 16B (Project Permit Administration), and with any specific processes requirements
1193 provided in 16C.03.20 through 16C.03.26 (specific permit descriptions), including but not
1194 limited to:
1195 (a) submittals;
1196 (b) completeness review;
1197 (c) notices;
1198 (d) hearings;
1199 (e) decisions; and,
1200 (f) appeals.
- 1201 (2) Development authorizations shall be reviewed for conformance with the applicable
1202 development standards provided in 16C.03.27 (General Critical Areas Protection Measures),
1203 and in Chapters 16C.06 through 16C.09, except that:
1204 (a) For rangeland livestock grazing operations, the Administrative Official may waive
1205 compliance with development standards in Chapters 16C.06 (Fish and Wildlife Habitat and
1206 the Stream Corridor), 16C.07 (Wetlands), 16C.08 (Geologically Hazardous Areas), and
1207 16C.09 (CARA), except for those uses and activities listed in Section 16C.06.10
1208 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be
1209 provided that has been prepared using all applicable US Department of Agriculture -
1210 National Resource Conservation Service best management practices designed to protect
1211 streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing
1212 operations. An acceptable Resource Management Plan is deemed to consist of acceptable
1213 critical areas protection measures capable of dealing with impacts of grazing activities
1214 dispersed across large areas. This provision is not intended to apply to pasture grazing,
1215 hobby farms, or confinement feeding operations.
- 1216 (3) Decisions on a development authorization shall be consistent with Section 16C.03.14
1217 (Authorization Decisions – Basis for Action), 16C.03.15 (Conditional Approval of
1218 Development Authorization) and with any specific decision criteria provided under the
1219 sections for each relevant permit type, as provided in 16C.03.20 through 16C.03.26 (specific
1220 permit descriptions).

1221
1222 **16C.03.14 Authorization Decisions – Basis for Action**

1223 The action on any development authorization under this title shall be based upon the following
1224 criteria:

- 1225 (1) Impact of the project to critical area features on the property or on abutting or adjacent
1226 properties;
1227 (2) Danger to life and property that would likely occur as a result of the project;

- (3) Compatibility of the project with the critical area features on, adjacent to, or near the property;
- (4) Conformance with the applicable development standards in this title;
- (5) Requirements of other applicable local, state or federal permits or authorizations, including compliance with flood hazard mitigation requirements of Chapters 16C.05.20 through 16C.05.72;
- (6) Adequacy of the information provided by the applicant or available to the department;
- (7) Ability of the project to satisfy the purpose and intent of this title;
- (8) Based upon the project evaluation, the decision maker shall take one of the following actions:
- (a) Grant the development authorization;
 - (b) Grant the development authorization with conditions, as provided in 16C.03.15 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or adjacent to the project site;
 - (c) Deny the development authorization.
- (9) The decision by the Administrative Official on the development authorization shall include written findings and conclusions stating the reasons upon which the decision is based.

16C.03.15 Conditional Approval of Development Authorization

In granting any development authorization, the decision maker may impose conditions to:

- (1) Accomplish the purpose and intent of this title;
- (2) Eliminate or mitigate any identified specific or general negative impacts of the project on the critical area;
- (3) Restore important resource features that have been degraded or lost because of past or present activities on the project site;
- (4) Protect designated critical areas from damaging and incompatible development;
- (5) Ensure compliance with specific development standards in this title.

16C.03.16 Fees and Charges

The board of county commissioners establishes the schedule of fees and charges listed in Yakima County Code, Title 20 (Yakima County Fee Schedule), for development authorizations, ~~variances~~adjustments, appeals and other matters pertaining to this title.

Critical Areas Reports

16C.03.17 Critical Areas Report Requirements

- (1) The Administrative Official may require a critical areas report, paid for by the applicant in accordance with YCC Title 16B.04, where determined necessary through the critical area identification form, technical assistance conference, site investigation, or other portion of the project review.
- (2) A qualified professional, as defined by this title, shall prepare the report utilizing best available science. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.
- (3) The critical area report shall:
 - (a) Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this title;

- (b) Describe all relevant aspects of the development proposal; all critical areas adversely affected by the proposal including any geologic or flood hazards; all risks to critical areas, the site, and other public and private properties and facilities resulting from the proposal; and assess impacts on the critical area from activities and uses proposed; and
- (c) Identify proposed mitigation and protective measures as required by this title.
- (4) The critical areas report shall include information to address the Supplemental Report Requirements for Specific Critical Areas (16C.03.18).
- (5) The Administrative Official shall review the critical areas report for completeness and accuracy, and shall consider the recommendations and conclusions of the critical areas report to assist in making decisions on development authorizations and to resolve issues concerning critical areas jurisdiction, appropriate mitigation, and protective measures.
- (6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be demonstrated to the satisfaction of the Administrative Official that the previously prepared report is adequate for current analysis. Future land use applications may require preparation of new, amended, or supplemental critical area assessment reports. Reports prepared for nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if relevant to the current analysis and meeting the above standards. The Administrative Official may also require the preparation of a new critical area assessment report or a supplemental report when new information is found demonstrating that the initial assessment is in error. If the Administrative Official requires more information in the report, he/she shall make the request in writing to the applicant stating what additional information is needed and why.
- (7) The Administrative Official may reject or request revision of the critical areas report when the Administrative Official can demonstrate that the assessment is incomplete, or does not fully address the critical areas impacts involved.
- (8) To avoid duplication, the reporting requirements of this chapter shall be coordinated if more than one critical area report is required for a site or development proposal.
- (9) Applicants should provide reports and maps to the County in an electronic format that allows site data to be incorporated into the County critical areas database, provided that the County may waive this requirement for single-family developments. Applicants are encouraged to coordinate with the Administrative Official regarding electronic submittal guidelines. This requirement shall not be construed as a requirement to use specific computer software.
- (10) At a minimum, a critical areas report shall include the following information:
- (a) A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and buffers within and abutting the site, including but not limited to effects related to clearing, grading, noise, light/glare, modification of surface or subsurface flow, drilling, damming, draining, creating impervious surface, managing stormwater, releasing hazardous materials, and other alterations. Projects in frequently flooded areas must comply with the requirements of Section 16C.05.20 through 16C.05.72. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the report shall identify the type of hazard and assess the associated risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
- (b) A written description of the critical areas and buffers on or abutting the site, including their size, type, classification or rating, condition, disturbance history, and functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high

- floodwater depth or velocity the description shall identify the type and characteristics of the hazard;
- (c) An analysis of potential adverse critical area impacts associated with the proposed activity. For geologically hazard areas, also assess the risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
 - (d) An explanation of how critical area impacts or risks will be avoided and/or minimized, how proposed mitigation measures will prevent or minimize hazards, why the proposed activity requires a location on or access across a critical area, the on-site design alternatives, and why alternatives are not feasible;
 - (e) When impacts cannot be avoided, the report shall include a plan describing mitigation to replace critical area functions and values altered as a result of the proposal, or to reduce flood or geologic hazards to critical areas, the site, and other public and private properties. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the plan shall address mitigation for impacts to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
 - (f) The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
 - (g) Additional reasonable information requested by the Administrative Official for the assessment of critical areas impacts or otherwise required by the subsequent articles of this title.
- (11) A critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Administrative Official.
- (12) The Administrative Official may limit the required geographic area of the critical area report as appropriate.
- (13) **Compensatory Mitigation Plans** - When compensatory mitigation, as described in Section 16C.03.10 (Mitigation Requirements) is required or proposed for wetland areas, ~~or~~ stream channels, or upland habitat areas, the applicant shall submit for approval by Yakima County a mitigation plan as part of the critical area report, which includes:
- (a) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the proposed compensation including:
 - i) A description of the anticipated impacts to the critical areas, mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals and objectives, identification of desired resource functions, dates for beginning and completion of site compensation construction activities, and an analysis of the likelihood of success of the compensation project. The goals and objectives shall be related to the functions and values of the impacted critical area.
 - (b) A review of the best available science supporting the proposed mitigation;
 - (c) A description of the report author's experience to date in restoring or creating the type of critical area proposed;
 - (d) Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained;

- 1366 (e) Detailed Construction Documents. The mitigation documents shall include written
1367 specifications and plans describing the mitigation proposed, such as:
1368 i) The proposed construction sequence, timing, and duration;
1369 ii) Grading and excavation details;
1370 iii) Erosion and sediment control features;
1371 iv) A planting plan specifying plant species, quantities, locations, size, spacing, and
1372 density;
1373 v) Measures to protect and maintain plants until established, and;
1374 vi) Documents should include scale drawings showing necessary information to convey
1375 both existing and proposed topographic data, slope, elevations, plants and project
1376 limits.
- 1377 (f) Monitoring Program. The mitigation plan shall include a program for monitoring
1378 construction of the compensation project and for assessing a completed project. A protocol
1379 shall be included outlining the schedule for site monitoring (for example, monitoring shall
1380 occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be
1381 evaluated to determine if the performance standards are being met. A monitoring report
1382 shall be submitted as needed to document milestones, successes, problems, and
1383 contingency actions of the compensation project. The compensation project shall be
1384 monitored for a period necessary to establish that performance standards have been met,
1385 but not for a period less than five (5) years.
- 1386 (g) Contingency Plan. The mitigation plan shall include identification of potential courses of
1387 action, and any corrective measures to be taken if monitoring or evaluation indicates
1388 project performance standards are not being met.
- 1389 (h) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary,
1390 to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring
1391 fulfillment of the compensation project, monitoring program, and any contingency
1392 measures shall be posted in accordance with Section 16C.03.27(1) (Financial Guarantees).
- 1393 (14) Innovative Mitigation.
- 1394 (a) Yakima County encourages innovative mitigation projects that are based on the best
1395 available science. The mitigation plan shall be used to satisfy the requirements of this
1396 chapter and provide relief and/or deviation as appropriate from the specific standards and
1397 requirements thereof. Advance mitigation or mitigation banking are examples of
1398 alternative mitigation projects allowed under the provisions of this section wherein one or
1399 more applicants, or an organization with demonstrated capability, may undertake a
1400 mitigation project together if it is demonstrated that all of the following circumstances
1401 exist:
- 1402 i) Creation or enhancement of a larger system of critical areas and open space is
1403 preferable to the preservation of many individual habitat areas;
1404 ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
1405 iii) The group demonstrates that long-term management of the habitat area will be
1406 provided;
1407 iv) There is a clear potential for success of the proposed mitigation at the identified
1408 mitigation site;
1409 v) There is a clear likelihood for success of the proposed plan based on supporting
1410 scientific information and demonstrated experience in implementing similar plans;

- vi) The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel-by parcel regulations and/or traditional mitigation approaches;
- vii) The plan is consistent with the general purpose and intent of this chapter;
- viii) The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and
- ix) The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
- (b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required wetland replacement ratios.
- (c) Projects that propose compensatory wetland mitigation shall also use the standards in Section 16C.07.05 (Compensatory Mitigation Requirements). For those situations where a mitigation bank may provide an opportunity for mitigation, then the requirements in Section 16C.07.06 (Wetland Mitigation Banks) shall apply.

16C.03.18 Supplemental Report Requirements for Specific Critical Areas

- (1) **Stream Corridors.** When a critical areas report is required for a stream corridor or hydrologically related critical area, it shall include the following:
- (a) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance the functional properties listed in Section 16C.06.05 (Functional Properties);
- (b) Where there is evidence that proposed construction lies within an immediate zone of potential channel migration, representing a future hazard to the construction, a hydrologic analysis report may be required. The report shall assume the conditions of the one-hundred-year flood, include on-site investigative findings, and consider historical meander characteristics in addition to other pertinent facts and data.
- (2) **Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat Conservation Areas, it shall include the following:
- (a) **Habitat Assessment:** A habitat assessment is an investigation of the project area to evaluate the presence or absence of such species, and ~~areas~~ habitat types with which such species have a primary association. The presence or absence assessment shall incorporate the time sensitive nature of species use. The landowner may submit an assessment prepared by the state or federal agency with jurisdiction over the species. This assessment is time sensitive and the assessment must be completed no more than 36 months prior to the date the critical areas application is deemed complete.
- (b) If the habitat assessment determines that such habitat area is present on site, a management plan is required that follows published federal, or state, management recommendations. The Administrative Official shall confer with the appropriate agency and consider their comments through the review process.
- (3) **Wetlands** When a critical areas report is required for Wetlands, it shall include the following:
- (a) The exact location of a wetland's boundary and wetland rating shall be determined through the performance of a field investigation by a qualified wetland professional applying the ~~Washington State Wetlands Identification and Delineation Manual (Ecology Publication #96-94)~~ 1987 Corps of Engineers Wetlands Delineation Manual

(<http://www.ecy.wa.gov/programs/sea/wetlands/pdf/corps87manual.pdf>~~http://www.ecy.wa.gov/pubs/9694.pdf~~) as required by RCW 36.70A.175 (Wetlands to be delineated in accordance with manual), *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)* (http://www.ecy.wa.gov/programs/sea/wetlands/pdf/AridWest_Sept2008.pdf), and *Western Mountains, Valleys, and Coast Region (Version 2.0)* (http://www.ecy.wa.gov/programs/sea/wetlands/pdf/WestMt_May2010.pdf), and the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication # ~~0414-06-15~~030 - <https://fortress.wa.gov/ecy/publications/SummaryPages/1406030.html>), as amended;

- (b) All delineated wetlands and required buffers within two hundred (200) feet of the project area shall be depicted on the site plan. For areas off-site of the project site, wetland conditions within 200 feet of the project boundaries may be estimated using the best available information. Best available information should include, but not be limited to aerial photos, land based photos, soils maps, or topographic maps;
- (c) A critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information:
 - i) A statement specifying all assumptions made and relied upon;
 - ii) Documentation of any fieldwork performed on the site, including field data sheets for delineations, the wetland rating form, baseline hydrologic data, etc.;
 - iii) A description of the methodologies used to conduct the wetland delineations, or impact analyses including references;
 - iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;
- (d) For projects that will affect the wetland or its buffer, provide the following:
 - i) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions and values listed in Section 16C.07.04(1) (Wetland Functions and Rating), and Section 16C.06.05 (Functional Properties);
 - ii) Mitigation sequencing pursuant to Section 16C.03.10 (Mitigation Requirements) to avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of wetland functions and values. Mitigation ratios may be necessary and should follow the guidance provided in Section 16C.07.05 (Compensatory Mitigation) of the wetland chapter.

- (4) **Geologically Hazardous Areas** When a critical areas report is required for a Geologically Hazardous Area, it shall include the following, provided that the Administrative Official may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

- (a) A description of the site features, including surface and subsurface geology. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;
- (b) A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any Suspected and Risk Unknown hazards identified in the affirmative determination of hazard (16C.08.04);
- (c) A description of the vulnerability of the site to seismic and other geologic processes and hazards;

- (d) A description of any potential hazards that could be created or exacerbated as a result of site development;
- (e) For developments in or affecting landslide hazard areas the report shall also include:
- i) Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the YCC Title 13 (Building Code);
 - ii) An analysis of slope recession rate shall be presented in those cases where stability is impacted or influenced by stream meandering, or other forces acting on the toe of the slope;
 - iii) Description of the run-out hazard of landslide debris to the proposed development that starts up-slope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down-slope properties and critical areas.

(5) Flood Hazards

- (a) Prior to authorization of any major construction project within a floodplain which can be anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the base flood, an engineering report shall be prepared that establishes any new flood elevations that would result for the one-hundred-year flood frequency if the project were implemented.

6) Critical Aquifer Recharge Areas

When a hydrogeological report is required for CARAs, it shall include the following:

- a) The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer.
- b) The hydrogeologic report shall be prepared by a hydrogeologist licensed in the state of Washington.
- c) The report shall contain recommendations on appropriate BMPs (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality.

Permit Review Criteria

16C.03.20 Standard Development Permit

- (1) **Classification Criteria** – Standard Development permits include any development not subject to RCW Chapter 90.58 (Shoreline Management Act).
- (2) **Process** Standard Development permits shall be processed as either a Type I or II permit at the judgment of the Administrative Official, in accordance with YCC Title 16B (Project Permit Administration). Applications that are of a significant size or scope shall be processed as a Type II review with public notice. Examples of such projects include those that typically require environmental review (SEPA), filling or excavating a stream channel or wetlands, involve large amounts of fill, require large amounts of parking, etc.
- (3) **Decision Criteria** – Decisions on Standard Development permits shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action).

16C.03.23 Adjustment

- (1) **Classification Criteria** – For projects not required to be processed under RCW Chapter 90.58 (Shoreline Management Act), the Administrative Official is authorized to administratively

adjust the development standards specified herein. Existing structures, parcel size, property boundaries, and other constraints may preclude conformance with building setbacks, vegetative buffers, and other provisions of this chapter. Given such constraints, administrative adjustments may be authorized where the site plan and project design include measures which ensure the protection and performance of the functional properties identified in Section 16C.06.05 (Functional Properties). Adjustments from prohibited use limits are not allowed.

- (2) **Process** – Requests for an Adjustment permit shall be processed as a Type II permit, in accordance with YCC Title 16B (Project Permit Administration). Requests for adjustments of development standards shall be made in writing and shall specify the standard(s) for which an adjustment is sought and the reasons why the adjustment is sought.
- (3) **Decision Criteria** - Decisions on Adjustment permits shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.
- (a) A particular standard may be reduced or modified as long as the Administrative Official determines that the adjustment and/or reduction:
 - i) is consistent with the purpose of this title;
 - ii) is consistent with the intent of the standard; and,
 - iii) will not result in degradation of the critical area.
 - (b) The Administrative Official shall consider the following:
 - i) The proximity and relationship of the project to any critical area and its impact on the critical area;
 - ii) The functions and values that the critical area performs;
 - iii) The overall intensity of the proposed use;
 - iv) The presence of threatened, endangered, or sensitive species;
 - v) The site's susceptibility to severe erosion;
 - vi) The use of a buffer averaging or buffer enhancement plan by the applicant which uses native vegetation or other measures which will enhance the functions and values of the Hydrologically Related Critical Area (HRCA).
 - (c) When granting an adjustment to the provisions of this chapter, the Administrative Official may require alternative measures to be taken to protect the function and value of the HRCA. These alternative measures may include, but are not limited to, the following:
 - i) Restoration of impaired channels and banks to conditions which support natural stream flows, fish habitat, and other values;
 - ii) Restoration, enhancement, and preservation of soil characteristics and the quantity and variety of native vegetation;
 - iii) Provisions for erosion control and for the reduction and filtration of stormwater runoff to moderate the effects of the project on the stream channel and the available area of vegetation separating the project from the stream channel;
 - iv) Removal or alteration of existing manmade facilities associated with stream channels, or drainage ways which improve stream-flow characteristics or improve the movement or exchange of surface waters or floodwaters;
 - v) Replacement of lost wetlands or other stream corridor features on an acre-for-acre and equivalent value or at a higher acre and/or value basis;
 - vi) Conservation easements for key portions of stream corridor property and/or their inclusion within public or private conservation programs which provide for their long-term preservation and maintenance.

- vii) Vegetative Buffer Averaging. Vegetative buffers may be modified by averaging buffer widths. Buffer averaging is preferred in the use of mitigation sequencing (16C.03.10 Mitigation Requirements), over a reduction in the buffer standards.
- (d) The following criteria must be met to reduce the vegetative buffers found in tables 6-1 and 6-2.
- i) There is a hardship related to maintenance of the buffer width that results from parcel boundaries or existing on-site development.
 - ii) The buffer width shall be the maximum possible while meeting the minimum needs of the proposal.
 - iii) The development will not result in a reduction of habitat functions and values.
 - iv) The buffer reduction will not adversely affect salmonid habitat.

16C.03.24 Reasonable Use Exception

- (1) **Classification Criteria** - If the application of this title would deny all reasonable economic use of the subject property, the property owner may apply for a Reasonable Use Exception pursuant to this section.
- (2) **Process** - A Reasonable Use Exception shall be processed as a Type III review with a public hearing in accordance with YCC Title 16B.03 (Classification by Project Permit Type).
- (3) **Decision Criteria** - Decisions on the Reasonable Use request shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action), together with the criteria below. The Reasonable Use request shall be accompanied by the evidence necessary to demonstrate conformance with the criteria below. Failure to satisfy any one of the criteria shall result in denial of the request. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.
- (a) The application of this title would deny all reasonable use of the property; provided that the inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant;
 - (b) No other reasonable use of the property has less impact on the critical area;
 - (c) Any alteration is the minimum necessary to allow for reasonable use of the property.

16C.03.25 Minor Revisions to Approved Uses or Developments

- (1) **Classification Criteria** – Minor revisions to a project that has been approved under a permit are allowed in certain circumstances.
- (a) Changes that are not substantive are not required to obtain a revision and may be allowed as activities to implement the original permit. Examples of such include minor changes in facility orientation or location, minor changes in structural design that does not change the height or increase ground floor area, and minor accessory structures (such as equipment covers or small sheds near the main structure, etc.).
 - (b) Substantive changes are those that materially alter the project in a manner that relates to its conformance with the permit requirements. Such changes may be approved as a minor revision, if the Administrative Official determines that the proposed revision and all previous revisions are within the scope and intent of the original permit, and meet the criteria listed below. Changes not able to meet the criteria must obtain a new permit.

- i) No additional over water construction will be involved, except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;
- ii) Lot coverage and height may be increased a maximum of ten percent from the provisions of the original permit: PROVIDED, that revisions involving new structures not shown on the original site plan shall require a new permit, and: PROVIDED FURTHER, that any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of these regulations;
- iii) Landscaping may be added to a project without necessitating an application for a new permit: PROVIDED, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with this title for the area in which the project is located;
- iv) The use authorized pursuant to the original permit is not changed;
- v) No additional significant adverse environmental impact will be caused by the project revision.
- (2) **Process** – Minor revisions to existing permits shall be processed as a Type I review, as provided under YCC Title 16B (Project Permit Administration). Parties of record to the original permit shall be notified of the revision, though a comment period is not required.
- (3) **Decision Criteria** - Decisions on permit revisions shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action).

16C.03.26 Non-Conforming Uses and Facilities

Non-Conforming Uses and Facilities are classified as either conforming uses with non-conforming structures or areas, or as non-conforming uses, as described in subsection 1 below. Both types have different review processes and decision criteria, as provided below in subsections 2 and 3.

- (1) **Classification Criteria** – There may be situations that do not conform to the standards or regulations of this title. These situations are characterized as:
- (a) **Non-conforming Uses.** Uses of a structure or land that were lawfully established at the time of their initiation but are currently prohibited by this title are non-conforming uses, and may utilize structures or land areas that are also non-conforming. A non-conforming use that is discontinued for any reason for more than one year shall have a presumption of intent to abandon, shall not be re-established, and shall lose its non-conforming status, unless an Adjustment (16C.03.23) is obtained to extend the length of time, based on documentation showing that an intent to abandon did not exist during the period of discontinuance. An Adjustment request may be submitted after the deadline has passed. In the case of destruction or damage where reconstruction costs exceed 50% of the assessed value, the structure shall not be rebuilt;
- (b) **Conforming Uses with Non-Conforming Structures or Areas** are structures or areas for conforming uses that were lawfully established at the time of their initiation, but currently do not conform to the bulk, dimensional or other development standards of this title. Structures or areas in locations approved under a permit shall not be considered non-conforming. Non-conforming outdoor areas that have not been used or maintained for 5 consecutive years shall lose their non-conforming status and may not be reestablished;
- (c) Any non-conforming structure, area, or use may be maintained with ordinary care according to the provisions in 16C.01.05 (Applicability) and 16C.03.05 (Minor Activities

Allowed without a Permit), and do not require additional review under these non-conforming provisions.

(2) Process

(a) Alterations to conforming uses with non-conforming structures or areas shall be allowed under the following process requirements with the understanding that other permits or reviews may also be required under this title:

- i) Those that do not increase the existing non-conformity and otherwise conform to all other provisions of this title are allowed without additional review under these non-conforming provisions;
- ii) Those that increase the non-conformity, including establishing additional square footage within a buffer, are allowed without additional review under these non-conforming provisions; however, an Critical Areas Adjustment Permit must be obtained for the increased non-conformity;
- iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value shall be processed as provided in subsections i) and ii) above;
- iv) A nonconforming structure which is moved any distance shall be processed as provided in subsections 1 and 2 above;
- v) Reconstruction or repair of structures destroyed or damaged 75% or more of the assessed value of the structure (not the whole property), including that resulting from neglect of maintenance or repair, shall be processed under these non-conforming provisions as a Type II review under YCC Title 16B (Project Permit Administration).

(b) Alterations to Non-Conforming Uses

- i) Those involving expansion or alteration within an existing structure, but do not include alterations to outdoor areas, or expansions of the building's height or square footage are allowed without additional review under these non-conforming provisions.
- ii) Alterations to non-conforming uses, including their non-conforming structures or areas that do not qualify under paragraph i) above, shall be processed under these non-conforming provisions as a Type II review, as provided under YCC Title 16B (Project Permit Administration).

(3) Decision Criteria

(a) Decisions on projects that require review under the non-conforming provisions, as identified under subsection (1) above shall be based on the general decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.

(b) Applications for conforming uses with non-conforming structures or areas that are subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that the project meets all of the following criteria:

- i) Using the original location will not place the structure or people in danger of a hazard;
- ii) The previous structure and any structural shore modification used to protect the structure did not increase hazards or damage to other properties;
- iii) The previous structure and any shore modification used to protect the structure did not cause significant impacts to the functions and values of the critical area.

(c) Decisions on non-conforming uses:

- i) A non-conforming use may not be altered or expanded in any manner that would bring that use into greater non-conformity.

16C.03.27 General Critical Areas Protective Measures

The standards below apply to all permits and reviews performed under this title.

(1) Financial guarantees to ensure mitigation, maintenance, and monitoring.

- (a) When mitigation required pursuant to a development proposal is not completed prior to the Yakima County's final permit approval, such as final plat approval or final building inspection, the Administrative Official may require the applicant to post a financial guarantee to ensure that the work will be completed. If the development proposal is subject to compensatory mitigation for wetlands and streams, the applicant must post a financial guarantee to ensure mitigation is fully functional. Where financial guarantees are required by other state or federal agencies for specific mitigation features, additional financial guarantees for those features are not required under this provision.
- (b) The financial guarantee shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.
- (c) The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the Administrative Official, with terms and conditions acceptable to the Yakima County attorney.
- (d) The financial guarantee shall remain in effect until the Administrative Official determines, in writing, that the standards bonded for have been met. Financial guarantees for wetland or stream compensatory mitigation shall be held for a minimum of five years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
- (e) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
- (f) Any failure to satisfy critical area requirements established by law or condition, including but not limited to the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan, shall constitute a default, and the Administrative Official may demand payment of any financial guarantees or require other action authorized by the Yakima County code or any other law.
- (g) Any funds recovered pursuant to this section shall be used to complete the required mitigation. Such funds shall not be deposited in the County General Fund, but rather provided with a separate account. The County will use such funds to arrange for completion of the project or mitigation, and follow-up corrective actions.
- (h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

(2) Declarative Covenants

- (a) When a development is authorized by a critical areas permit or review, a declarative covenant shall, unless determined not to be necessary by the Administrative Official, be filed with the Yakima County Auditor to inform future owners of the existence of a critical areas decision that runs with the land and contains limits relating to critical areas on the property. The declarative covenant shall read substantially as follows:

“This declarative covenant is intended to reduce the incidence of unintentional violation of the Critical Areas Ordinance. Please be informed about your property and the laws that apply to it.

This declarative covenant is provided by Yakima County to the current and future owners of the property described as [enter property description] to inform them that, at the time of this notice, [enter Critical Areas present] existed within or adjacent to the property which are protected and regulated by the Yakima County Critical Areas Ordinance (YCC Title 16C). Development has taken place on the property under permit or review number [enter permit file number], which includes requirements that run with the land. Current and future owners should obtain copies of the permit and also inform themselves about the critical areas that exist on the property.

This declarative covenant may be removed or modified if critical areas conditions change, or if the permit is no longer applicable. Contact the Yakima County Public Services for assistance in doing so.”

- (b) The declarative covenant shall not be required for a development proposal by a public agency or public or private utility:
 - i) Within a recorded easement or right-of-way;
 - ii) Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
 - iii) On the site of a permanent public facility.
- (c) The applicant shall submit proof that the declarative covenant has been filed for public record before the Administrative Official approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.
- (3) Subdivision Standards - The following standards apply to all permits or reviews under the Unified Land Development Code (YCC Title 19) that contain critical areas:
 - (a) All subdivisions that contain critical areas shall be eligible for density bonuses or other development incentives, as provided in the Unified Land Development Code (YCC Title 19);
 - (b) Critical areas shall be actively protected through the following:
 - i) Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible;
 - ii) When Geologically Hazardous Areas (excluding Erosion, Over Steepened Slopes of Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Buffers fall within the boundary of a subdivision:
 - (1) Said critical areas shall be protected by placing them entirely within a separate critical area tract, or by including them entirely within one of the developable parcels. Other options, such as conservation easements and building envelopes may be deemed by the Administrative Official as meeting this provision when special circumstances obstruct the viability of this provision;

1819 (2) For those new lots that do contain said critical areas, useable building envelopes
1820 (5,000 square feet or more for residential uses) shall be provided on the plat that lie
1821 outside said critical areas.
1822 iii) New lots partially within the floodplain shall provide a usable building envelope (5,000
1823 square feet or more for residential uses) outside the floodplain;
1824 iv) New lots entirely within the floodplain shall be at least one acre in area;
1825 v) For new lots containing-, streams, wetlands, and/or vegetative buffers, outdoor use
1826 envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the
1827 plat that lie outside said critical areas;
1828 vi) Degraded vegetative buffers shall be restored, or provided with protection measures
1829 that will allow them to recover;
1830 vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and
1831 relevant information about them disclosed on the final plat.
1832

BOCC Adopted Ord 5-2017

Chapter 16C.04
ENFORCEMENT AND PENALTIES

Sections:

- 16C.04.01 Enforcement Responsibilities Generally
- 16C.04.02 Enforcement Responsibilities – Chapters 16C.05.20 through 16C.05.72,
Flood Hazard Permits
- 16C.04.03 Penalties

16C.04.01 Enforcement Responsibilities Generally

It shall be the duty of the Administrative Official or his designee to enforce the provisions of the Critical Areas Ordinance pertaining to all development within the jurisdiction of this title, except as expressly noted in Section 16C.04.02 below pertaining to flood hazard permits. Whenever any development is found to be in violation of this title or a development authorization issued pursuant to this title, the Administrative Official or his designee may order any work on such development stopped by serving written notice on any person engaged in the wrongdoing or causing such development to be done. The notice shall be in the form of a "~~cease and desist~~ Notice of Violation and/or Stop Work Order" ~~order~~ and shall indicate corrective actions necessary to fulfill authorization conditions and/or terms of this title and the time within which such corrections shall occur, including reclamation requirements outlined in Chapter 16C.06.23. No further development shall be authorized unless and until compliance with the development authorization conditions and/or terms of this title has been achieved to the satisfaction of the Administrative Official.

**16C.04.02 Enforcement Responsibilities – Chapters 16C.05.20 through 16C.05.72,
Flood Hazard Permits**

It shall be the duty of the Chief Building Official or his designee to enforce the provisions of Chapters 16C.05.20 through 16C.05.72. Whenever any development is found to be in violation of said chapters or a permit issued pursuant to said chapters, the Chief Building Official may order any work on such development stopped by serving written notice on any persons engaged in the doing or causing such development or substantial development to be done. Any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

16C.04.03 Penalties

- (1) Violation of the provisions of this title or failure to comply with any of its requirements constitutes a misdemeanor and a public nuisance. Any person who violates or fails to comply with any of its requirements shall, upon conviction in a court of competent jurisdiction, be fined not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.
- (2) It shall be the affirmative duty of the county prosecutor's office to seek relief under this section for violations of this title.
- (3) Nothing herein shall prevent the county prosecutor's office from taking such other lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.
- (4) In addition to any criminal proceedings brought to enforce this title and in addition to any fine or imprisonment provided for therein, continuing violations of this title may be enjoined or

1879 ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement
1880 actions, such violations are declared to be public nuisances. Any person, firm, or corporation
1881 violating the provisions of this title shall be liable for all costs of such proceedings, including
1882 reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in
1883 addition to any other remedies available at law or equity.
1884

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Chapter 16C.05
FLOOD HAZARD AREAS

16C.05.20 FLOOD HAZARD AREAS – GENERAL PROVISIONS

Sections:

16C.05.20.010	Flood Hazard Areas Established
16C.05.20.030	Principles
16C.05.20.050	Applicability
16C.05.20.060	Exemptions
16C.05.20.070	Interpretations
16C.05.20.080	Compliance
16C.05.20.090	Warning and Disclaimer of Liability

16C.05.20.010 Flood Hazard Areas Established

The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA), in a scientific and engineering report entitled "The Flood Insurance Study for Yakima County, Washington and Incorporated Areas" dated November 18, 2009, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be part of Chapters 16C.05.20 through 16C.05.72 and are established as flood hazard areas. The Flood Insurance Study and maps are on file at the Yakima County Courthouse Building, Yakima, Washington. [State defined frequently flooded areas are included within the flood hazard areas.](#) The best available information for flood hazard area identification as outlined in 16C.05.44.060 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under 16C.05.44.060.

16C.05.20.030 Principles

- (1) Recognizing the right and need of the river channel to periodically carry more than the normal flow of water and desiring to minimize loss of life and property, Chapters 16C.05.20 through 16C.05.72 restrict uses and regulate structures to those that are consistent with the degree of flood hazard.
- (2) In advancing the above principals, the intent of Chapters 16C.05.20 through 16C.05.72 and their application is:
 - (a) To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
 - (b) To meet the minimum requirement of the National Flood Insurance program;
 - (c) To implement state and federal flood protection programs.

16C.05.20.050 Applicability

The guidelines and regulations set forth herein YCC Title 13 and related International Codes shall apply to all special flood hazard areas within the jurisdiction of Yakima County and shall be utilized when considering the issuance of permits through the administrative of quasi-judicial processes within Yakima County.

- (1) The provisions of Chapters 16C.05.20 through 16C.05.72 shall apply to any development proposed in a special flood hazard area,

- (2) Flood hazard permits shall be approved by Yakima County. County approvals shall only be granted when in accordance with Chapters 16C.05.20 through 16C.05.72 and other applicable local, state and federal regulations.
- (3) Topographic, engineering and construction information necessary to evaluate the proposed project shall be submitted to the department for approval.
- (4) The granting of a permit for any development or use shall not constitute a representation, guarantee or warranty of any kind or nature by Yakima County, or any official or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result thereto.

16C.05.20.060 Exemptions

The following uses and activities are exempt from the provisions of Chapters 16C.05.20 through 16C.05.72:

- (1) The alteration or substantial improvement of any structure listed on the National Register of Historic Places or a state inventory of historic places;
- (2) The installation and maintenance of aboveground utility transmission lines and poles;
- (3) Private driveways, fences and other accessory activities and/or uses necessary for agricultural uses which the building official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse;
- (4) Construction and practices normal or necessary for agricultural uses. The construction of an accessory barn or similar agricultural structure, designed to have a low flood-damage potential, not involving substantial cutting, filling, or watercourse modification, is subject to Section 16C.05.28.020(3)(a) through (e). (Ref. IRC 323)

16C.05.20.070 Interpretations

- (1) In the interpretation and application of Chapters 16C.05.20 through 16C.05.72, the provisions shall be considered as minimum requirements, shall be liberally construed in favor of Yakima County, and deemed neither to limit nor repeal any other powers granted under state statute. Its provisions shall be applied in addition to and as a supplement to provisions of the Yakima County Codes (YCC), Title 13, Building and Construction, YCC Title 19 – Unified Land Development Code and the Shoreline Master Program (YCC Title 16D). Chapters 16C.05.20 through 16C.05.72 are not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these chapters and other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent requirement shall prevail.
- (2) In an interpretation as to an exact location of the boundaries of the special flood hazard areas (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59, etc.) (Ref. IBC 104.1).

16C.05.20.080 Compliance

No structure or land shall hereafter be used, constructed, located, extended, converted or altered without full compliance with the terms of Chapters 16C.05.20 through 16C.05.72 and other applicable regulations.

16C.05.20.090 Warning and Disclaimer of Liability

The degree of flood protection required by Chapters 16C.05.20 through 16C.05.72 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. Chapters 16C.05.20 through 16C.05.72 do not imply that land outside the area of special flood hazards or uses permitted within such area will not be subject to flooding or flood damage.

16C.05.28 FLOOD HAZARD PROTECTION STANDARDS

Sections:

- | | |
|---------------|--------------------|
| 16C.05.28.010 | General Standards |
| 16C.05.28.020 | Specific Standards |

16C.05.28.010 General Standards

The following regulations shall apply in all special flood hazard areas:

(1) Anchoring and Construction Techniques.

(a) All new construction and substantial improvements shall be:

- (i) Anchored to prevent flotation, collapse or lateral movement of the structure; and
- (ii) Constructed using materials and utility equipment resistant to flood damage; and
- (iii) Constructed using methods and practices that minimize flood damage; and
- (iv) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques). Anchoring shall meet the specifications set forth below for structures located within one hundred feet of a floodway or the ordinary high water mark if no floodway has been established.

(c) All new construction and any improvements or additions to existing floodproofed structures that would extend beyond the existing floodproofing located within one hundred feet of the floodway or one hundred feet of the ordinary high water mark if no floodway has been established, shall be elevated to a height equal to or greater than the base flood, using zero-rise methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that non-zero-rise construction methods will not impede the movement of floodwater or displace a significant volume of water. The size and spacing of any support devices used to achieve elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified above in subsection (1)(a) of this section.

- (d) Except where otherwise authorized, all new construction and substantial improvements to existing structures shall require certification by a registered professional engineer, architect or surveyor that the design and construction standards are in accordance with adopted floodproofing techniques.
- (2) Utilities.
- (a) All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (3) Subdivision Proposals.
- Subdivision proposals shall:
- (a) Be consistent with the need to minimize flood damage;
- (b) Have roadways, public utilities and other facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (c) Have adequate drainage provided to reduce exposure to flood damage; and
- (d) Include base flood elevation data.
- (4) Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a watercourse in riverine situations, the department shall notify adjacent communities, the Department of Ecology and FEMA of the proposed development.
- 16C.05.28.020 Specific Standards**
- In all special flood hazard areas where base elevation data has been provided as set forth in Section 16C.05.20.010, the following regulations shall apply, in addition to the general regulations of Section 16C.05.28.010:
- (1) Residential Construction. (ref. IRC323.2)
- (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (c) Residential construction within one hundred feet of a floodway or the ordinary high water mark, if no floodway has been established, shall also meet the requirements of Section 16C.05.28.010(1)(c).
- (2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure, and any addition to an existing floodproofed structure that would extend beyond the existing floodproofing, shall either have

the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (a) Be floodproofed so that below an elevation one foot above base flood level the structure is watertight, with walls substantially impermeable to the passage of water; and
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (c) Be certified by a registered professional engineer or architect that the design and method of construction are in accordance with accepted standards of practice for meeting provisions of this subsection, based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official;
- (d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 16C.05.28.020(1)(b) above;
- (e) Meet the special standards for structures set forth in Section 16C.05.28.010(1)(c) above if within one hundred feet of a floodway or within one hundred feet of the ordinary high water mark and no floodway has been established;
- (f) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below the level). Flood proofing the building an additional foot will reduce insurance premiums significantly. (Ref. IBC 1612.5)

(3) Agricultural Construction. New construction and substantial improvement of any agricultural structure shall either have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation; or meet the floodproofing requirements of subsection (2) of this section. Agricultural construction or other accessory structures that constitute a minimal investment and comply with the floodway encroachment standards may be exempt from the floodproofing and elevation requirements of subsection (2) above when such structures, together with attendant utility sanitary facilities:

- (a) Have a low potential for structural flood damage;
- (b) Are designed and oriented to allow the free passage of floodwaters through the structure in a manner affording minimum flood damage; and
- (c) Ensure that all electrical and mechanical equipment subject to floodwater damage and permanently affixed to the structure be elevated a minimum of one foot above the base flood elevation or higher, or floodproofed;
- (d) Are constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and
- (e) Will not be used for human habitation.

All such structures shall be anchored to resist flotation, collapse, and lateral movement, and that only flood resistant materials be used for elements of these buildings below the base flood elevation.

(4) Manufactured Homes.

- (a) Manufactured homes shall be anchored in accordance with Section 16C.05.28.010(1)(b), shall have the lowest floor elevated to or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with Section 16C.05.28.010(1)(b).

16C.05.32 FLOODWAY FRINGE USES

Sections:

16C.05.32.010 Permitted Uses

16C.05.32.020 Prohibited Uses

16C.05.32.010 Permitted Uses

The following uses are permitted in the floodway fringe areas:

- (1) Any use permitted in the zoning district in accordance with YCC Title 19 of the Yakima County Code, unless prohibited by Section 16C.05.32.020.
- (2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with YCC Title 19 and where not otherwise inconsistent with Chapters 16C.05.20 through 16C.05.72; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:
 - (a) Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed.
 - (b) Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of Section 16C.05.36.010(2)(c).
 - (c) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all other agricultural and nonagricultural floodway fringe or special flood hazard areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage.
 - (d) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.
 - (e) Aboveground utility transmission line appurtenant structures, including valves, pumping stations or other control facilities, shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available, or in the event a floodway fringe or special flood hazard location is environmentally preferable. In such instances, aboveground structures shall be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately floodproofed.

16C.05.32.020 Prohibited Uses

The following uses shall be prohibited in floodway fringe areas:

- (1) New manufactured home parks and the expansion of manufactured home/parks.

16C.05.36 FLOODWAY USES

Sections:

16C.05.36.010 Permitted Uses

16C.05.36.020 Prohibited Uses

16C.05.36.010 Permitted Uses Permitted uses include any use permitted in the zoning district in accordance with YCC Title 19 of this code, provided that said use is in compliance with the flood hazard protection standards of Chapter 16C.05.28 and other applicable provisions of this title, and will have a negligible effect upon the floodway in accordance with the floodway encroachment provisions of Section 16C.05.36.020(2):

- (1) Surface mining, provided that the applicant can provide clear evidence that such uses will not divert flood flows causing channel-shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of Title 19 and the Yakima County Shoreline Management Master Program Regulations (Shoreline Master Program (Title 16D), where applicable);
- (2) Utility transmission lines, unless otherwise prohibited by this division; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:
 - (a) All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways,
 - (b) Electric transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed,
 - (c) Buried utility transmission lines transporting hazardous and nonhazardous materials, including but not limited to crude and refined petroleum products and natural gas, water and sewage, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by Yakima County, shall assume the conditions of a one-hundred-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the Yakima County Shoreline Management Master Program Regulations,
 - (d) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all agricultural areas requiring or potentially requiring subsurface drainage shall be a minimum of six feet as measured from ground surface to the top of the transmission line, or at other such depth as deemed necessary by on-site investigations performed by a qualified soils expert familiar with Yakima County

- soils. Burial depth in all other agricultural and nonagricultural floodway areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage,
- (e) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the level of the one-hundred-year flood, the transmission line shall be placed on the downstream side and protected from flood debris. In such instances, site-specific conditions and flood damage potential shall dictate placement, design and protection throughout the floodway. Applicants must demonstrate that such aboveground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be adequately protected from flood damage. If the transmission line is to be buried except at the waterway crossing, burial specifications shall be determined as in subsection (2)(C) of this section;
 - (f) Aboveground utility transmission line appurtenant structures, including valves, pumping stations, or other control facilities, shall not be permitted in the floodway,
 - (g) Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified one-hundred-year flood event;
- (3) Construction or reconstruction of residential structures only as authorized in Section 16C.05.36.020(3);
 - (4) Improvements to existing residential structures that are not substantial improvements per Section 16C.02.395; provided, the improvement complies with the requirement set forth in Section 16C.05.36.020(2).
 - (5) Water-dependent utilities and other installations which by their very nature must be in the floodway. Examples of such uses are: dams for domestic/industrial water supply, flood control and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; structures and nonstructural uses and practices; provided, that the applicant shall provide evidence that a floodway location is necessary in view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this title and the Shoreline Management Master Program (YCC Title 16D). In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection (2) above;
 - (6) Dikes, provided that the applicant can provide evidence that:
 - (a) Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences,
 - (b) Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired,
 - (c) The proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented;
 - (7) Roads and bridges, subject to the regulations of Section (2) above.

16C.05.36.020 Prohibited Uses

The following uses/developments are prohibited in the floodway:

- (1) Any structure, including manufactured homes, designed for, or to be used for human habitation of a permanent nature (including temporary dwellings authorized by Section 15.72.060);
- (2) All encroachments, including fill, new construction and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;
- (3) Construction or reconstruction of residential structures within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the assessed value of the structure either (A) before the repair, reconstruction or improvement is started, or (B) if the structure has been damaged and is being restored, before the damage occurred. Work done on structures to correct existing violations of existing health, sanitary or safety codes, or to structures identified as historic places shall not be included in the fifty percent. If subsection (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Chapters 16C.05.20 through 16C.05.72, including those set forth in subsection (5) below;
- (4) The construction or storage of any object subject to flotation or movement during flood level periods;
- (5) The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway, are specifically prohibited:
 - (a) The filling of wetlands, except as authorized under Chapter 16C.06 (Fish and Wildlife Habitat and the Stream Corridor) and Chapter 16C.07 (Wetlands) of this title,
 - (b) Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or materials,
 - (c) Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the occurrence of the base flood discharge;
- (6) The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited.

16C.05.40 NON-CONFORMING USES AND STRUCTURES

Sections:

16C.05.40.010	Generally
16C.05.40.020	Non-conforming Uses of Land
16C.05.40.030	Non-conforming Structures
16C.05.40.040	Improvements
16C.05.40.050	Restoration
16C.05.060	Discontinuance

16C.05.40.010 Generally

- (1) Within the special flood hazard areas established by Chapters 16C.05.20 through 16C.05.72 or amendments thereto, there may exist structures and uses of land and structures which were lawful before these chapters were adopted or amended, but which would be prohibited,

regulated or restricted under the terms of Chapters 16C.05.20 through 16C.05.72 or future amendment.

- (2) It is the intent of Chapters 16C.05.20 through 16C.05.72 to permit these lawful pre-existing nonconformities to continue until they are removed by economic forces or otherwise, but not to encourage their survival except in cases where continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of said chapters.
- (3) To avoid undue hardship, nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program, and upon which actual building construction has been diligently carried on; namely, actual construction materials placed in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved. October 1, 1995, the effective date of the ordinance codified in Title 16A shall be used as it applies to all other Critical Areas requirements established under Title 16A by Ordinance 8-1995.

16C.05.40.020 Non-conforming Uses of Land

If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a lawful use of land not conducted within a building exists that is made no longer permissible under the terms of said chapters as adopted or amended, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of the lot of record than that which it occupied at the effective date of adoption or amendment of Chapters 16C.05.20 through 16C.05.72.
- (2) At such time as a structure is erected thereon, the structure and the use of the land shall conform to the regulations specified by Chapters 16C.05.20 through 16C.05.72 and YCC Title 19.

16C.05.40.030 Non-conforming Structures

- (1) If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a structure is nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirement of said chapters and Chapter 19.33 of YCC Title 19, provided that the degree of nonconformity shall not be increased and the applicable elevation and/or floodproofing requirements of this title shall be observed, any structural alterations or enlargements of an existing structure under such conditions shall not increase the degree of nonconformity.
- (2) A structure, nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirements of Chapters 16C.05.20 through 16C.05.72, destroyed to an extent such that restoration costs would exceed fifty percent of the assessed value of the structure immediately prior to such occurrence, shall be considered completely destroyed and shall be required to meet all applicable requirements of this title and YCC Title 19 upon restoration.

16C.05.40.040 Improvements

Nothing in Chapters 16C.05.20 through 16C.05.72 shall be construed to restrict normal structural repair and maintenance activities, including replacement of walls, fixtures and plumbing, provided that the value of work and materials in any twelve-month period does not exceed twenty-five percent of the assessed value of the structure prior to such work.

16C.05.40.050 Restoration

Nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to prohibit the restoration of the structural portions of a nonconforming use within six months from the date of its accidental damage by fire, explosion, or act of God; provided that the applicable elevation and/or floodproofing requirements of said chapters shall be adhered to if the structure is destroyed. A structure shall be considered to be destroyed if the restoration costs exceed fifty percent of the assessed value.

16C.05.40.060 Discontinuance

If the nonconforming use is discontinued for a period of twelve consecutive months or more, the nonconforming status of the use is terminated and any future use of the land or structures shall be in conformity with the provisions of this title. The mere presence of a structure, equipment, or material shall not be deemed to constitute the continuance of a nonconforming use unless the structure, equipment or material is actually being occupied or employed in maintaining such use. The ownership of property classed as nonconforming may be transferred without that fact alone affecting the right to continue such nonconforming use.

16C.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION

Sections:

16C.05.44.010	Administration
16C.05.44.020	Authority
16C.05.44.030	Permit – Required
16C.05.44.040	Permit – Application
16C.05.44.050	Permit – Review
16C.05.44.060	Use of Available Data
16C.05.44.070	Limitations
16C.05.44.080	Permit – Expiration & Cancellation
16C.05.44.090	Performance Bonds
16C.05.44.100	Appeals
16C.05.44.110	Coordination

16C.05.44.010 Administration

The Chief Building Official is vested with the duty of administering the rules and regulations relating to flood hazard protection in accordance with the provisions of Chapters 16C.05.20 through 16C.05.72 and may prepare and require the use of such forms as are essential to such administration.

16C.05.44.020 Authority

Upon application, the Chief Building Official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20 through 16C.05.72 and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of the policies of the Critical Areas Ordinance.

16C.05.44.030 Permit – Required

Prior to any development within a special flood hazard area a flood hazard permit shall be obtained. This permit may be in addition to the critical area development authorization as set forth in Chapter 16C.03 of this title.

16C.05.44.040 Permit – Application

All persons applying for a flood hazard permit shall submit a written application, accompanied by an application fee as specified in YCC Title 20, using the forms supplied. The application shall not be considered complete until the following minimum information is provided:

- (1) Name, address and telephone number of applicant;
- (2) Name, address and telephone number of property owner;
- (3) Project description and taxation parcel number;
- (4) Name of the stream or body of water associated with the floodplain in which the development is proposed;
- (5) Site plan map showing:
 - (a) Actual dimensions and shape of the parcel to be built on,
 - (b) Sizes and location of existing structures on the parcel to the nearest foot,
 - (c) Location and dimensions of the proposed development, structure or alteration,
 - (d) Location, volume and type of any proposed fill,
 - (e) The application shall include such other information as may be required by the administrative official, to clarify the application, including existing or proposed building or alteration, existing or proposed uses of the building and land, and number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot, and such other matters as may be necessary to determine conformance with, and provide for the enforcement of Chapters 16C.05.20 through 16C.05.72;
- (6) Information required by other sections of Chapters 16C.05.20 through 16C.05.72.

16C.05.44.050 Permit – Review

Flood hazard permit applications will be reviewed to determine:

- (1) That the floodproofing requirements and other provisions of Chapters 16C.05.20 through 16C.05.72 have been satisfied;
- (2) If the proposed development is located in the floodway, the floodway encroachment provisions of Section 16C.05.36.020(2) are met;
- (3) If the proposed development includes the alteration or relocation of a watercourse, the provisions of Section 16C.05.28.010(4) are met;
- (4) That the proposed development is a use permitted under Chapters 16C.05.20 through 16C.05.72 and YCC Title 19;
- (5) That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

16C.05.44.060 Use of Available Data

When base flood elevation data has not been provided in accordance with Section 16C.05.20.010; (Flood hazard areas established), the county shall obtain, review, and reasonably utilize any [flood area extent from frequently flooded areas](#), base flood elevation, and floodway data available from a federal, state or other source, in order to administer Section 16C.05.28.020 (Specific Standards) and 16C.05.36.020 (Floodway Prohibited Uses) and Chapter 16C.04 (Enforcement and Penalties). [For flood hazard areas without elevations from FIRMs, they shall be determined for proposed structures by the flood official as the greater of the ground elevation at the flood map extent or the maximum ground elevation plus two feet at the proposed structure footprint.](#)

16C.05.44.070 Limitations

Permits issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized is a violation of Chapters 16C.05.20 through 16C.05.72 and punishable as provided by 16C.04 (Enforcement and Penalties).

16C.05.44.080 Permit – Expiration & Cancellation

If the work described in any permit has not begun within one hundred eighty days from the date of issuance thereof, the permit shall expire and be canceled by the chief building official.

16C.05.44.090 Performance bonds

- (1) The county may require bonds in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with approvals under Chapters 16C.05.20 through 16C.05.72. Bonds, if required, shall be furnished by the property owner, or other person or agent in control of the property.
- (2) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the department in an amount equal to that which would be required in the surety bond.

16C.05.44.100 Appeals

The decision to grant, grant with conditions or deny a flood hazard permit shall be final and conclusive unless the applicant appeals the decision pursuant to the procedure established for appeals in Chapter 16C.03.

16C.05.44.110 Coordination

Upon application, the Chief Building Official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20 through 16C.05.72 and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of this title.

16C.05.48 ELEVATION AND FLOODPROOFING CERTIFICATION

Sections:

- | | |
|---------------|---|
| 16C.05.48.010 | Applicability |
| 16C.05.48.020 | Certification Form |
| 16C.05.48.030 | Information to be Obtained and Maintained |
| 16C.05.48.040 | Certification Responsibility |

16C.05.48.010 Applicability

Certification shall be provided to verify that the minimum floodproofing and elevation standards of Chapter 16C.05.28 have been satisfied. Certification shall be required only for the new construction or substantial improvement of any residential, commercial, industrial or nonresidential structure located in a special flood hazard area, except that agricultural and certain accessory structures constructed in accordance with the standards of Section 16C.05.28.020(3) shall not require certification. Such structures are still subject to elevation or floodproofing certification for flood insurance purposes.

16C.05.48.020 Certification Form

The form of the elevation and floodproofing certificate shall be specified by the Chief Building Official and shall be generally consistent with that required by FEMA for the administration of the National Flood Insurance Program.).

16C.05.48.030 Information to be obtained and maintained

The elevation and floodproofing certificate shall verify the following flood hazard protection information:

- (1) The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
- (2) The actual elevation (in relation to mean sea level) of floodproofing of all new or substantially improved floodproofed structures, and that the floodproofing measures utilized below the base flood elevation render the structure watertight, with walls substantially impermeable to the passage of water;
- (3) Where a base flood elevation has not been established according to Section 16C.05.20.010, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) as related to the highest adjacent grade, and whether or not the structure contains a basement.

16C.05.48.040 Certification Responsibility

The project proponent shall be responsible for providing required certification data to the Chief Building Official prior to the applicable construction inspection specified in the certification form. All elevation and floodproofing data specified in Section 16C.05.48.030 must be obtained and certified by a registered professional engineer, architect, or surveyor. The elevation and floodproofing certification shall be permanently maintained by the chief building official.

16C.05.52 VARIANCES

Sections:

16C.05.52.010	Procedure
16C.05.52.020	Variance limitations
16C.05.52.030	Conditions for Authorization
16C.05.52.040	Administrative Official's Decision
16C.05.52.050	Notification and Final Decision
16C.05.52.060	Power to Refer Decisions
16C.05.52.070	Appeals

16C.05.52.010 Procedure

Any person seeking a variance from the requirements of Chapters 16C.05.20 through 16C.05.72 authorized under Section 16C.05.52.020 shall make such request in writing to the department on forms supplied by the department. Upon receipt of a completed application and application fee for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent property within twenty days of the receipt of completed application and fee. The notice shall solicit written comment on the variance request and specify a time period not less than ten days from the date of mailing, during which written comments may be received and considered. The notice shall also state that copies of the administrative official's final decision will be mailed upon request. The administrative official may also solicit comments from any other person or public agency he or she feels may be affected by the proposal.

16C.05.52.020 Variance limitations

- (1) Variances shall be limited solely to the consideration of:
 - (a) Elevation requirements for lowest floor construction;
 - (b) Elevation requirements for floodproofing;
 - (c) The type and extent of floodproofing.
- (2) Variances shall not be considered for any procedural or informational requirements or use prohibitions of Chapters 16C.05.20 through 16C.05.72.

16C.05.52.030 Conditions for Authorization

Before a variance to the provisions of Chapters 16C.05.20 through 16C.05.72 may be authorized, it shall be shown that:

- (1) There are special circumstances applicable to the subject property or to the intended use, such as size, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone; and
- (2) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located; and
- (3) Such a variance is the minimum necessary, considering the flood hazard, to afford relief; and
- (4) Failure to grant the variance would result in exceptional hardship to the applicant; and
- (5) The granting of such a variance will not result in:
 - (a) Increased flood heights,
 - (b) Additional threats to public safety,
 - (c) Creation of nuisances,
 - (d) Extraordinary public expense,
 - (e) Conflicts with other existing local laws or ordinances.

16C.05.52.040 Administrative Official's Decision

After considering any comments received from other agencies, jurisdictions or adjoining property owners, the administrative official shall approve, approve with conditions, or deny the variance request. The administrative official shall prepare written findings and conclusions stating the specific reasons upon which the decision is based.

16C.05.52.050 Notification and Final Decision

The decision shall be issued within seven days from the end of the comment period. Further, the administrative official shall mail the findings and decision to the applicant and to other parties of record requesting a copy.

16C.05.52.060 Power to Refer Decisions

In exercising the duties and powers of implementing and administering Chapters 16C.05.20 through 16C.05.72, the administrative official may refer any variance application to the hearing examiner for action at a public hearing.

16C.05.52.070 Appeals

Any decision by the administrative official to approve or deny a variance request may be appealed subject to the procedures set forth in Section 16C.03.13 (Development Authorization – Review Procedure).

16C.05.72 MAP CORRECTION PROCEDURES

Sections:

16C.05.72.010 Federal Flood Hazard Map Correction Procedures

16C.05.72.010 Federal flood hazard map correction procedures.

The procedures for federal flood hazard map correction, as provided in federal regulations Section 70 CFR of the National Insurance Program are hereby adopted by reference.

Chapter 16C.06

FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM

Sections:

Introduction

16C.06.01 Purpose and Intent

16C.06.02 Protection Approach

Designation and Mapping

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16C.06.01 Purpose and Intent

- (1) The stream corridor system includes hydrologically related critical areas, streams, lakes, ponds, and wetlands, and are part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to help conserve, protect, and, where feasible, restore and enhance this complex relationship. These regulations have been designed to:
 - (a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the functions and values of fish and wildlife habitat, wetlands, stream undercutting geologic hazards and frequently flooded areas; and to give special consideration to anadromous fish;
 - (b) Meet eligibility requirements of the National Flood Insurance Program (NFIP), and the authorities set forth in RCW 86.12.
- (2) The guidelines, policies, and standards of this chapter are intended to:
 - (a) Provide alternatives for necessary development, construction, and uses within a designated stream corridor and other hydrologically related critical areas;
 - (b) Prevent further degradation in the quantity and quality of surface and subsurface waters;
 - (c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation, and ecological relationships;
 - (d) Protect public and private properties from adverse effects of improper development within hazardous or sensitive areas of the stream corridor;
 - (e) Provide a zero net loss of natural wetlands functions and values together with, a gain of wetlands in the long term, if reasonably possible through voluntary agreements or government incentives;
 - (f) Establish measures to protect streams, lakes, ponds, and wetlands;
 - (g) Recognize that, based on WAC 365-190-130~~080~~(15) (Fish and Wildlife Habitat Conservation Areas) ~~wildlife habitat conservation~~ means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability. land use planning is critically important; Fish and wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.

16C.06.02 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. Riparian corridors

offer a natural system of such linkages. Yakima County accomplishes fish and wildlife habitat protection in 3 parts:

- (a) Protect habitat for aquatic (in-water) species through stream, lake, pond- and wetland standards;
 - (b) Protect habitat for riparian (near-water) species through stream, lake, pond, and wetland standards and buffer requirements;
 - (c) Protect upland habitat conservation areas using the habitat protection measures of Chapter 16C.11.
- (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.
- (3) To accomplish upland wildlife protection on private lands, Yakima County ~~performed an assessment to map~~ uses Washington State Department of Fish and Wildlife staff consultation and Priority Habitat and Species mapping to identify wildlife habitat. ~~Only a small percentage of the mapped area is within private ownership and that is largely in remote areas of forest and rangeland. Consequently, part of~~ Yakima County's relies upon large lot/low density provisions of the Remote/Extremely Limited Development Potential (40-acre minimum), Forest Watershed (80-acre minimum) and Agriculture (40-acre minimum) zoning districts ~~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. Proposed development within upland wildlife habitat areas is reviewed in accordance with 16C.03.02(3)(c)(ii) to determine if a habitat assessment is required.~~
- (4) Corridors for wildlife to move between large habitat areas are a component of wildlife habitat. ~~Riparian corridors offer a natural system of linkages between such areas.~~ In semi-arid regions such as Yakima County, riparian corridors not only offer migratory linkages between large habitat areas but also offer important refuge and habitat for numerous species that rely on the riparian areas for their existence. ~~Consequently,~~ Yakima County's approach to protect wildlife migration corridors ~~and riparian habitat~~ is to rely on the protection measures for stream corridors, wetlands, upland wildlife habitat, and Shoreline jurisdiction (YCC 16D), where applicable.
- (5) 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 outlined in Section 16C.11.060 and 16C.11.070. 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.

Designation and Mapping

16C.06.03 Hydrologically Related Critical Area Features

The stream corridor and other hydrologically related critical areas are designated critical areas and include one or more of the following features:

- (1) Any floodway and floodplain identified as a special flood hazard area. Special flood hazard areas are those identified by the Federal Insurance Administration in the Flood Insurance Study for Yakima County which, together with accompanying Flood Insurance Rate Maps and frequently flooded, ~~is~~ areas are hereby adopted by reference and declared to be a part of this title as set forth in Chapters 16C.05.20 through 16C.05.72;
- (2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main channel and all secondary channels within the Ordinary High Water Mark;
- (3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-made lakes and ponds created within a stream channel designated under (2) above;
- (4) All wetlands, that meet the definition found in Section 16C.02.425, as required by WAC 365-190-080(1), and as designated in Section 16C.07.02(1) of the wetland chapter;
- (5) Where specifically cited, any flood-prone area not included in a designated floodway and floodplain, but indicated as flood-prone ~~by U.S. Soil Conservation Service soil survey data or geologic evidence developed through professional geologists or engineers~~ (i.e. specific flood frequency, stream channel migration), by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.;
- (6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream channel, lake, or pond, designated in this section or from the edge of a wetland designated in this section according to the distances set forth in Section 16C.06.16 (Vegetative Buffers);

16C.06.05 Functional Properties

- (1) Streams, lakes and ponds and wetlands require a sufficient riparian area to support one or more of the following functional properties:
 - (a) Streambank and shore stabilization;
 - (b) Providing sufficient shade through canopy cover to maintain water temperatures at optimum levels and to support fish habitat;
 - (c) Moderating the impact of stormwater and meltwater runoff;
 - (d) Filtering solids, nutrients, and harmful substances;
 - (e) Surface erosion prevention;
 - (f) Providing and maintaining migratory corridors for wildlife;
 - (g) Supporting a diversity of wildlife habitat;
 - (h) Providing floodplain functions noted below;
 - (i) Contributing woody debris and organic matter to the aquatic environment;
 - (j) Providing altered climatic conditions different from upland areas.
- (2) Stream channels generally support one or more of the following functional properties:
 - (a) Groundwater recharge and/or discharge;
 - (b) Water transport;
 - (c) Sediment transport and/or storage;
 - (d) Biogeochemical functions (see lakes, ponds and wetland functions below);
 - (e) Channel migration and creation of a dynamic habitat mosaic;
 - (f) Food web and habitat functions

- (3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or lesser degree. Wetlands are often located along the margins of lakes and ponds, which often mixes the functions between the two. Lakes, ponds and wetlands generally provide one or more of the following functional properties:
- (a) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention and transformation;
 - (b) Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;
 - (c) Food web and fish and wildlife habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.
- (4) Floodplains generally provide one or more of the following functional properties:
- (a) Floodwater storage and passage, including the movement of high velocity flood waters;
 - (b) Sediment storage and recruitment;
 - (c) Food web and habitat functions;
 - (d) Nutrient sink and/or source;
 - (e) Groundwater recharge and/or discharge.
- (5) Some functions, as, for example, supporting a diversity of wildlife habitat, require larger areas which may not be achievable due to existing development and construction constraints. In these instances, adjustments to the minimum standards to accommodate such constraints may be necessary. However, a reduction of standards impairs the hydrologically related critical area's ability to support some functional properties. Reductions of standards should be offset by enhancement, restoration or preservation measures which replace lost functions or strengthen other functional properties if replacement of the lost functions is not possible.

16C.06.06 Stream, Lake and Pond Typing System

For purposes of this title, Yakima County hereby adopts a stream, lake and pond typing system, for those features designated as critical areas in Section 16C.06.03 (Hydrologically Related Critical Area Features), as follows:

- (1) **Type 1 streams**, lakes and ponds are those waters-, within their ordinary high water mark (OHWM), meeting the criteria as "shorelines of the state" and "shorelines of statewide significance" under RCW Chapter 90.58, but not including those waters' associated wetlands as defined in RCW Chapter 90.58. The current list of Shoreline waters, along with their specific shoreline environments are provided in Appendix B and C of the Shoreline Master Program. Type 1 streams and lakes are protected by the Shoreline Mater Program (YCC Title 16D), rather than the CAO;
- (2) **Type 2 streams** are those streams that may be perennial or seasonal and that are known to be used by anadromous fish or resident salmonids. Type 2 streams require protection due to the nature of their contributions to the functional properties listed in Section 16C.06.05. Designated Type 2 streams are listed in Appendix A of this title.
- (3) **Type 3 streams** include all perennial streams within Yakima County not classified as Type 1 or 2;
- (4) **Type 4 streams** are all intermittent streams within Yakima County not classified as Type 1, 2 or 3;
- (5) **Type 5 streams** are all ephemeral streams within Yakima County not classified as Type 1, 2, 3 or 4. Type 5 streams are not regulated under this title;

- (6) **Lakes and ponds** not designated as a shoreline that receive water from the OHWM of a Type 2, 3, or 4 stream shall have the same surface water type as the highest stream type associated with it;
- (7) **Natural lakes and ponds**, not designated as a shoreline, that do not receive water from the OHWM of a Type 1, 2, 3, or 4 stream shall be Type 3 ponds.

16C.06.07 Wetland Rating System

Wetlands within Yakima County are defined in Section 16C.02.425 and are shown on the data maps referenced in Section 16C.06.08 (Maps). Most, but not all, of the wetlands within Yakima County occur near streams. All wetlands deserve a standard of protection, through the use of vegetative buffers, that is directly related to their contribution to the functional properties listed in Section 16C.06.05 (Functional Properties) and Section 16C.07.04 (Wetland Functions and Rating). For regulatory purposes, wetlands are classified into four categories according to the Wetland Rating System found in Section 16C.07.04(2) (Wetland Functions and Rating) of the wetland chapter.

16C.06.08 Maps

Certain fish and wildlife habitat and hydrologically related critical areas have been inventoried and are depicted on a series of paper and electronic maps maintained at the Yakima County Public Services Department. The best available graphic depiction of critical areas within the county will be used and continuously updated as reliable data becomes available. Maps may be both regulatory and non-regulatory in nature as described below:

- (1) Regulatory maps are created with a defined process not necessarily corresponding directly with easily observable physical features such as streams and wetlands. These maps define the regulated critical areas. They are also formally adopted by the Board of Yakima County Commissioners and may only be changed by that body. Regulatory maps include the following:
 - (a) Any floodway or floodplain identified as a special flood hazard area by the Federal Insurance Administration in the Flood Insurance Study for Yakima County.
- (2) Administrative maps are intended to indicate the approximate presence, location and/or typing of the subject critical area features, and act as a trigger for further investigation of the extent and characteristics of critical areas in a specific project location. These maps were created using reconnaissance level or better data. Given site-specific variations in reconnaissance level data, more detailed information developed at the site-specific level may be used to modify the maps as it is developed; the maps maintained by the Yakima County Public Services Department do not officially define the extent or characteristics of specific critical areas; rather the physical characteristics that exist “on the ground” define the boundaries of the regulated critical areas. Administrative maps include, but are not limited to the following:
 - (a) Wetlands;
 - (b) Streams;
 - (c) Channel migration zone;
 - (d) Priority Habitat and Species (PHS) and Habitats of Local Importance - Mapped habitat areas for newly listed species will be generated as needed to supplement the existing maps. PHS and Habitats of local importance currently include:
 - i) Available maps from WDFW regarding the location of those Priority Habitat and Species listed in Appendix B.

- (ii) Type 2 Streams, lakes and/or ponds listed in Appendix A.
- (e) Upland Wildlife Habitat Analysis Map.
- (3) Other information sources – these are maps or other data sources, including special studies and management plans, which are neither produced or maintained by the Yakima County Public Services Department, which are used to indicate the presence of Critical Areas, importance or ranking of critical areas functions, or hazard or risk associated with Critical Areas. These information sources include, but are not limited to:
- (a) Comprehensive Flood Hazard Management Plans and associated studies;
 - (b) Soil Survey of Yakima County;
 - (c) Natural resource management plans, such as local and federal Recovery Plans, or Forest Plans prepared by the US Forest Service;
 - (d) Surficial Geologic Maps;
 - (e) Historic and Current Aerial Photo Series;
 - (f) Geohydraulic studies – geologic cross sections showing aquifers and confining units;
 - (g) Priority Habitat and Species Maps.

General Development Standards

16C.06.10 Prohibited Uses

The following uses and activities are prohibited within a designated hydrologically related critical area:

- (1) Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;
- (2) Confinement feeding operations including livestock feedlots and dairy confinement areas;
- (3) The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;
- (4) The draining or filling of a wetland, lake or pond, except as provided for in Section 16C.06.21 (Filling);
- (5) The removal and transport of material for fill outside of the stream corridor;
- (6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds, and other similar waste disposal facilities. This provision does not include municipal wastewater lines or septic systems approved by a local or state agency with authority to permit such facilities;
- (7) Solid waste disposal sites;
- (8) Automobile wrecking yards;
- (9) Fill for the sole purpose of increasing land area within the stream corridor;
- (10) Those uses located within the floodway fringe that are listed in 16C.05.32.020 (new and expanded mobile or manufactured home parks);
- (11) Those uses located within the floodway that are listed in 16C.05.36.020 (dwellings, filling wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and any use causing flood impacts.)
- ~~(12)~~ (12) Construction or placement of an inhabitable structure within an identified landslide hazard area, landslide run-out area, or their buffers.

16C.06.11 General Policies and Standards

The following policies and standards shall apply to any development, construction, or use carried out within a designated hydrologically related critical area:

- (1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland buffers shall be marked on the ground before any development, construction, or use is initiated.
- (2) Any disturbance to Eexisting riparian vegetation and any unique or sensitive vegetative species identified on the project site within the stream corridor shall be mitigated according to the standards set forth in 16C.03.10~~disturbed to the minimum extent possible.~~
- (3) Any disturbance to Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be mitigated according to the standards set forth in 16C.03.10~~disturbed to the minimum extent possible.~~
- (4) Projects within the stream corridor shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered.
- (5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved by a local, state or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the ~~Eastern Washington~~ Yakima Regional Stormwater Manual ~~are exempt from the requirements below.~~ are considered to have met the following required development standards that apply to all projects:
 - (a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.
 - (b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion.
 - (c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.
 - (d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and meltwater runoff into stream channels, drainage ways, and conduits, shall provide on-site or off-site facilities for the detention, control, and filtration of such increases.
 - (e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.
 - (f) Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.
- (6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.
- (7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.

- (8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.
- (9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.
- (10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.
- (11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.
- (12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.
- (13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.
- (14) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (15) Development, construction, or uses within the hydrologically related critical area that would contribute to the degradation of the functions and values shall be avoided or mitigated using mitigation sequencing as outlined in Section 16C.03.10 (Mitigation Requirements).
- (16) Development shall not obstruct, cut off, or isolate stream corridor features.
- (17) Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership.
- (18) ~~Yakima County will utilize the Washington State Department of Archaeology and Historic Preservation's (DAHP) archaeological and historic database to determine if prospective land use permits may impact archaeological or cultural resources. As part of permit review, if the property is within 500' of an identified archaeological or cultural resource site, applicants will be required to consult with both the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) and DAHP to determine if their project has any potential impacts to those resources. On project permits beyond 500' of an identified archaeological or cultural resource site, Yakima County will notify the Yakama Nation on projects that require notification, as well as DAHP through the SEPA register.~~ If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify Yakima County, the Washington State Office of Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).
- (19) The provisions of Chapters 16C.05.20 through 16C.05.72 of this title shall also apply to the development of lots and the placement, construction, or installation of structures in floodways and floodplains.

- (20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using reclamation standards in Section 16C.06.23 (Reclamation).
- (21) Projects located within the floodway must meet the requirements of 16C.05.36.010 (Floodway – Permitted Uses).
- (22) Projects within a floodplain must meet the requirements of Section 16C.05.28. (Flood Hazard Protection Standards) and 16C.05.32 (Floodway Fringe Uses).
- (23) Changing from an existing use or development which does not meet the provisions of this chapter to a new use shall be reviewed in light of the following:
- (a) The conversion will demonstrably reduce impacts to stream corridor and other hydrologically related critical area features; and
 - (b) The conversion will restore and/or enhance the functional properties outlined in Section 16C.06.05 (Functional Properties).

Water Dependency Development Standards and Buffer Requirements

16C.06.12 Use Classifications

For purposes of this chapter, the components of any development, construction, or use requiring a critical area development authorization shall be classified as provided below, and shall conform with the development standards applicable to the classification provided in Sections 16C.06.13 through 16C.06.15, except for those activities listed in Section 16C.03.05 (Minor Activities Allowed without a Permit):

- (1) Water Oriented Uses are one of the following two categories of uses:
- (a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland crossings for roads and railroads, stream and wetland crossings for utilities, swimming beaches, fishing sites, in-water or on-land shore stabilization structures, livestock watering sites, and other uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. This provision applies only to the specific portion of a project that is demonstrably dependent upon the water or shore.
 - (b) A water-related use is one not intrinsically dependent on a waterfront location but whose economic viability is enhanced by a waterfront location either because it requires large quantities of water, or because it provides services for water dependent uses and the proximity to its customers makes such services less expensive and/or more convenient. Examples would include thermal power plants, wastewater treatment plants, water processing and treatment plants, support services for fish hatcheries or aquaculture, fly shops and boat rental shops.
- (2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

16C.06.13 Water-dependent Uses

The following provisions shall apply to water-dependent uses:

- (1) Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore;
- (2) Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers);

- (3) Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.

16C.06.14 Water-related Uses

The following provisions shall apply to water-related uses:

- (1) Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water;
- (2) Structures and use areas shall not be located within the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers) except where existing development or the requirements associated with the use make such a location unavoidable.

16C.06.15 Non-water Oriented Uses

The following provisions shall apply to non-water-oriented uses:

- (1) Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers);
- (2) Construction abutting the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers) shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

16C.06.16 Vegetative Buffers

(1) Establishment. There is hereby established a system of vegetative buffers that are necessary to protect and maintain the functions and values of certain hydrologically related critical areas. Standard buffers for streams, lakes, ponds and wetlands, based on a review of the best available science, are listed in table 6-1 and 6-2.

- (a) Vegetative buffers shall be measured horizontally from the Ordinary High Water Mark (OHWM) for streams, lakes and ponds, and from the wetland edge for wetlands, as identified in the field. The width of the buffer shall be determined according to the stream or wetland type.
- (b) Buffer width may be reduced through an Adjustment (16C.03.23) permit process. 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).
- (c) The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation is degraded, then no adjustment to the buffer width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

Table 6 – 1

Stream Type	Buffer Width See 16C.06.16, subsections (1)(a)-(c).
Type 1 Shoreline streams, lakes and ponds	100' (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))

Type 2 streams, lakes and ponds	100'
Type 3 streams (Perennial), lakes and ponds	50'
Type 4 streams (Intermittent), lakes and ponds	25'
Type 5 streams (Ephemeral)	No buffer standards Type 5 streams are not regulated through buffer requirements, but <u>However,</u> 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.

Table 6-2

Type 1 Wetlands	Type 2 Wetlands	Type 3 Wetlands	Type 4 Wetlands
200'	100'	75'	50'

Land Modification Development Standards

16C.06.17 Roads, Railroads and Parking

The following provisions shall apply to the location and construction of roads, railroads and parking within a designated hydrologically related critical area; except that logging roads, being a special category of roads, may be regulated as Forest Practices under this title (refer to those relevant sections):

- (1) Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor, or where existing development, topography, and other conditions preclude locations outside the stream corridor.
 - (a) Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
 - (b) Roadways that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.
 - (c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate stream corridor features.
- (2) Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade, or shall be transported outside the corridor;
- (3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood-prone;

- (4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor;
- (5) Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water, sediment and woody debris;
- (6) The preservation of natural stream channels and drainage ways shall be preferred over the use of culverts, where culverts are the preferred method, large, natural bottom culverts, multi-plate pipes and bottomless arches are preferred;
- (7) The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.
- (8) Where fish are present ~~(or there is potential for fish to be present)~~, culverts shall be designed and constructed to specifications provided through the Department of Fish and Wildlife ~~or a comparable source of expertise~~;
- (9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed away during high water;
- (10) Roads must be designed and constructed using established flood resistant and design and construction methods when they may be subject to damage by flood waters;
- (11) Roads and bridges within floodways must meet the requirements of Section 16C.05.36.010 (2) and (7).

16C.06.18 Utility Transmission Lines and Facilities

The following provisions shall apply to the location, construction, or installation of utility transmission lines and facilities (such as those for wastewater, water, communication, natural gas, etc.) within a designated hydrologically related critical area:

- (1) Utility transmission lines and facilities shall be permitted within the stream corridor only where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor.
- (a) Utility transmission lines and facilities across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
- (b) The construction of utility transmission lines and facilities within a stream corridor shall be designed and located to ensure minimum disruption to the functional properties specified under Section 16C.06.05 (Functional Properties) of this title.
- (2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy replacement or repair with minimal disturbance to the stream corridor;
- (3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is greater, and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis;
- (4) Wherever possible, new aboveground installations shall use available, existing bridge and utility locations and stream corridor crossings as opposed to creating new locations and stream corridor crossings;
- (5) Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical;
- (6) Transmission support structures shall be located clear of high flood velocities, located in areas of minimum flood depth which require the least floodproofing, and shall be adequately floodproofed;

- (7) Underground utility transmission lines shall be constructed so they do not alter, intercept or dewater groundwater patterns that support streams, wetlands and hyporheic flow;
- (8) All new and replacement water supply systems and wastewater systems within a special flood hazard area must meet the requirements of 16C.05.28.010(2) (re: infiltration or discharge into or out of the system);
- (9) Utility transmission lines within the Floodway Fringe shall meet the standards of 16C.05.32.010(2);
- (10) Utility transmission lines within the Floodway shall meet the standards of 16C.05.36.010(2).

16C.06.19 Shore Stabilization

- (1) The following provisions shall apply to shore stabilization projects:
Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, or facilities, and which stabilization will not jeopardize other upstream or downstream properties;
- (2) Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise using the [Washington State Aquatic Habitat Guidelines Program Integrated Streambank Protection Guidelines \(ISPG\)](#), or other accepted guidelines;
- (3) Stabilization projects shall be confined to the minimum protective measures necessary to protect the threatened property;
- (4) The use of fill to restore lost land may accompany stabilization work, provided no fill is placed waterward of the resultant shore ~~does not extend beyond~~ the new ordinary high water mark, finished grades are consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with Section 16C.06.21 (Filling);
- (5) Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects;
- (6) Alternative Preferences. Vegetation, berms, bioengineering techniques, and other nonstructural alternatives which preserve the natural character of the shore shall be preferred over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization. Riprap using rock or other natural materials shall be preferred over concrete revetments, bulkheads, breakwaters, and other structural stabilization;
- (7) Applications to construct or enlarge dikes or levees shall meet the requirements of 16C.05.36.010(6);
- (8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore;
- (9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or other solid construction methods;
- (10) All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

16C.06.20 Dredging and Excavation

The following provisions shall apply to dredging and excavation within a designated hydrologically related critical area:

- (1) Dredging in surface waters shall be allowed only where necessary because of existing navigation needs, habitat restoration or improvement, maintenance or construction of water-dependent uses;
- (2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use;
- (3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging;
- (4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials;
- (5) Entries across shore and wetland edges to accomplish dredging or excavation shall be confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage;
- (6) Dredging and excavation shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes;
- (7) Dredge spoils are also considered fill, and shall not be deposited within the stream except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.

16C.06.21 Filling

The following provisions shall apply to filling activities within a designated hydrologically related critical area:

- (1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses, or an approved reclamation plan under Section 16C.06.23 (Reclamation) or approved compensatory mitigation plan under Section 16C.03.17(13);
- (2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter;
- (3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods;
- (4) Fill in floodplains shall meet the requirements of Chapters 16C.05.20 through 16C.15.072 (Flood Hazard Areas);
- (5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities;
- (6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality;
- (7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes;
- (8) Fill and finished surface material shall require low maintenance, provide high resistance to erosion, and prevent or control the migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless the Washington Department of Fish and Wildlife indicates other options are preferred;
- (9) Projects that propose fill ~~shall make every effort to~~ must acquire the fill onsite (also known as compensatory storage), unless documentation is provided demonstrating that onsite fill is not available or substandard suitable for the project where appropriate;
- (10) Fill should not obstruct, cut off, or isolate stream corridor features.

16C.06.22 Commercial Mining of Gravels

The following provisions shall apply to the commercial mining of gravels within a designated hydrologically related critical area, except that mining may be regulated as Forest Practices under this title, (refer to those relevant sections):

- (1) Prior to the authorization of a commercial gravel mining operation, the project proponent shall provide maps to scale which illustrate the following:
 - (a) The extent to which gravel excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation;
 - (b) The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation;
 - (c) The description, location, and extent of any proposed subsequent use that would be different than existing uses.
- (2) Wherever feasible, the operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value;
- (3) Any surface mining allowed within the floodway shall meet the standards of 16C.05.36.010(1);
- (4) Except where authorized by Yakima County in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:
 - (a) The excavation zone for the removal of gravels shall be located a minimum of one hundred feet upland from the ordinary high water mark (OHWM) of the stream channel;
 - (b) Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM;
 - (c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.
- (5) Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

16C.06.23 Reclamation

The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:

- (1) Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation within the stream corridor;
- (2) Large-scale projects or projects extending over several months shall be phased to allow reclamation of areas where work or operations have been completed;
- (3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season, and other seasonal variables that influence restoration and recovery;
- (4) Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas;
- (5) Where existing development and construction prevent the return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent stream corridor degradation;
- (6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the materials involved;

- (7) The replacement or enhancement of vegetation within ~~wetlands~~critical areas ~~and or their~~
~~required~~ vegetative buffers shall use naturally occurring, native plant species. ~~In other parts of~~
~~the stream corridor, naturally occurring, native plant species shall be used, unless a showing~~
~~of good cause acceptable to the Administrative Official is provided, in which case self-~~
~~maintaining or low maintenance plant species compatible with native vegetation shall be~~
~~preferred over non native and high maintenance species.~~

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Chapter 16C.07
WETLANDS

Sections:

16C.07.01 Purpose and Intent

16C.07.02 Designating and Mapping

16C.07.03 Protection Approach

16C.07.04 Wetland Functions and Rating

16C.07.05 Compensatory Mitigation Requirements

16C.07.06 Wetland Mitigation Banks

16C.07.01 Purpose and Intent - The purpose and intent of the provisions protecting wetland critical areas is equivalent to the purpose and intent for Chapter 16C.06.01 (Purpose and Intent).

16C.07.02 Designating and Mapping

(1) Wetlands are those areas that meet the definition found in Section 16C.02.425 as provided in RCW 36.70A.030(21). All areas within Yakima County meeting the wetland definition are hereby designated critical areas and are subject to the provisions of this title. The following clarifications guide the application of the wetland definition:

(a) Due to the inherent design of most irrigation systems, such systems are reasonably and foreseeably expected to result in some leakage or seepage. Such leakage or seepage is a normal result of utilization of irrigation systems and is deemed for the purposes of this title to be a non-regulated, artificial wetland.

(2) The approximate location and extent of wetlands are shown on maps maintained by Yakima County, which may include information from the National Wetlands Inventory produced by the US Fish and Wildlife Service and soil maps produced by United States Department of Agriculture National Resources Conservation Service that are useful in helping to identify potential wetland areas. These maps are to be used as a guide for Yakima County, project applicants and/or property owners, and may be continuously updated as wetlands are more accurately identified, located and delineated.

16C.07.03 Protection Approach

(1) Wetlands will be protected using the Protection Approach for Hydrologically Related Critical Areas found in 16C.06.02 (Protection Approach), which accommodates issues affecting wetlands.

(2) Wetlands and their functions will be protected using the standards found in the Stream Corridor Chapter (16C.06), which includes provisions to:

(a) Follow mitigation sequencing as outlined in Section 16C.03.10 (Mitigation Requirements);

(b) Avoid degrading the functions and values of the wetland and other critical areas;

(c) Provide a zero net loss of wetland functions and values together with, if reasonably possible through voluntary agreements or government incentives, a gain in functions and values through the long term.

16C.07.04 Wetland Functions and Rating

- (1) Wetlands are unique landscape features that are the interface between the aquatic and terrestrial environments. Wetlands provide the following functions:
- (a) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention, and transformation;
 - (b) Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;
 - (c) Food web and habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.
- (2) Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the *Washington State Wetland Rating System for Eastern Washington*, ~~revised August 2004~~ 2014 Update (Ecology Publication #~~0414-06-15~~ 030 - ~~http://www.ecy.wa.gov/pubs/0406015.pdf~~ <https://fortress.wa.gov/ecy/publications/SummaryPages/1406030.html>) as determined using the appropriate rating forms contained in that publication. These categories are summarized as follows:
- (a) Category I wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible or too difficult to replace within a human lifetime, and provide a high level of functions. Generally, these wetlands are not common and make up a small percentage of the wetlands within Yakima County. The following types of wetlands are Category I:
 - i) Alkali wetlands are characterized by the presence of shallow saline water with a high pH and provide the primary habitat for several species of migrant shorebirds and are also heavily used by migrant waterfowl and small alkali bee that is used to pollinate alfalfa and onion for seed production;
 - ii) Wetlands of High Conservation Value (formerly called Natural Heritage Wetlands) - Wetlands that are identified by scientists of the Washington Department of Natural Resources Natural Heritage Program as important ecosystems for maintaining plant diversity that represent rare plant communities or provide habitat for rare plants are uncommon in eastern Washington ~~high quality, relatively undisturbed wetlands, or wetlands that support state Threatened, or Endangered plant species;~~
 - iii) Bogs and Calcareous Fens are peat wetlands sensitive to disturbance and have not been successfully re-created through compensatory mitigation. Bogs are wetlands with peat soils and a low pH, usually a pH <5. Calcareous fens are a type of alkaline, rather than acidic wetland, maintained by groundwater that have a neutral or high pH and high concentrations of calcium and other alkaline minerals;
 - iv) Mature and old-growth forested wetlands with native slow growing trees, which include Western Red Cedar (*Thuja plicata*), Alaska Yellow Cedar (*Chamaecyparis nootkatensis*), pine spp. ~~ecies~~ (mostly White pine - *Pinus monticola*), Western Hemlock (*Tsuga heterophylla*), Oregon White Oak (*Quercus garryana*) and Englemann Spruce (*Picea engelmannii*);
 - v) Forested wetlands with stands of Aspen contribution as a priority habitat far exceeds the small acreage of these stands and relatively small number of stems (Hadfield & Magelssen, 2004). Furthermore, mature stand of aspen and its underground root system

- may be difficult to reproduce. Regeneration of aspen stands by sexually produced seeds is an unusual phenomenon (Romme et al., 1997);
- vi) Wetlands scoring ~~2270~~ points or more (out of ~~27400~~) from the rating of functions are Category I wetlands in the Eastern Washington Wetland Rating System.
- (b) Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include:
- i) Forested wetlands in the floodplains of rivers are an important resource in the floodplains of rivers, especially in the areas through which the river may flow regularly (often called the channel migration zone). Trees in the Floodplains are critical to the proper functioning and the dynamic processes of rivers. They influence channel form, create pools, riffles, and side channels that are essential habitat for many fish and other aquatic species. These trees also create localized rearing and flood refuge areas, and contribute to the stabilization of the main river channel (NRC, 2002);
- ii) Mature and old-growth forested wetlands with ~~native~~-fast growing native trees, which include Alders (Red - *Alnus rubra*, Thin-leaf - *A. incana ssp. tenuifolia*), Cottonwoods (Narrow-leaf - *Populus angustifolia*, Black - *P. balsamifera*), Willows (Peach-leaf - *Salix amygdaloides*, Sitka - *S. sitchensis*, Pacific - *S. lasiandra*); Quaking Aspen (*Populus tremuloides*); or Water Birch (*Betula occidentalis*)
- iii) Vernal pools, also called rainpools, are ecosystems located in a landscape with other wetlands retain water until the late spring when they dry out to allow some strictly aquatic organisms to flourish, and provide areas where migrating waterfowl can find food and pair bonding;
- iv) Wetlands scoring between ~~1954-2169~~ points (out of ~~27400~~) on the questions related to the functions present are Category II wetlands in the Eastern Washington Wetland Rating System.
- (c) Category III wetlands are often smaller, less diverse ~~and/or~~ more isolated from other natural resources in the landscape than Category II wetlands. Category III wetlands include:
- i) vernal pools that are isolated, and
- ii) wetlands with a moderate level of functions (scoring between ~~1630 -1850~~ points) in the Eastern Washington Wetland Rating System and can often be adequately replaced with a well-planned mitigation project.
- (d) Category IV wetlands have the lowest levels of functions, (scoring less than ~~1630~~ points) in the Eastern Washington Wetland Rating System, and are often heavily disturbed. These are wetlands that should be able to be replaced, and in some cases be improved. These wetlands may provide some important functions, and also need to be protected.
- (3) The wetland rating categories as described in section (2), above, shall be applied to projects which are submitted on or after the date of adoption of these provisions. The wetlands shall be rated as they exist on the day of project application submission, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. However, illegal modifications to wetlands which have been made since the original adoption of the Critical Areas Ordinance (YCC Title 16A 1995) shall not be considered when rating the wetland. Information regarding the original condition of illegally modified wetlands that can not be discerned from aerial photographs or other reliable information sources, which is needed to complete the *Eastern Washington Wetland Rating System* data sheets, shall use the highest

appropriate points value within each missing data field of the rating sheet to complete the rating.

16C.07.05 Compensatory Mitigation Requirements

Projects that propose to compensate for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory mitigation for alterations to wetlands shall provide no net loss of wetland functions and values, and must be consistent with the Mitigation Plan Requirements in ~~section~~ Section 16C.03.17 (13) (Compensatory Mitigation Plans). The following guidance documents were developed to assist applicants in meeting the regulations and requirements.

- (1) Compensatory mitigation plans ~~must~~ be consistent with [Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance](#) and ~~[Guidance on Wetland Mitigation in Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals](#)~~ or as revised (~~Washington State Department of Ecology, U.S. Army Corps of Engineers (Seattle District), and U.S. Environmental Protection Agency Region 10; Ecology publication number 0406-06-013B~~ <https://fortress.wa.gov/ecy/publications/summarypages/0606011b.html> ~~http://www.ecy.wa.gov/v/programs/sea/bas-wetlands/volume2final.html~~ <http://www.ecy.wa.gov/programs/sea/Wetlands/mitigation/guidance/index.html> ~~see latest update at~~ <http://www.ecy.wa.gov/programs/sea/Wetlands/mitigation/guidance/index.html>).
- (2) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent with “Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands – Appendix 8-D- Section 8-D.3” or as revised (Washington State Department of Ecology. Publication number 05-06-008 - <https://fortress.wa.gov/ecy/publications/parts/0506008part2.pdf> ~~http://www.ecy.wa.gov/programs/sea/wetlands/peW2014Appendix80.pdf~~ <https://fortress.wa.gov/ecy/publications/summarypages/0506008.html> ~~http://www.ecy.wa.gov/v/programs/sea/bas-wetlands/volume2final.html~~).

16C.07.06 Wetland Mitigation Banks

- (1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - (a) The bank is certified under RCW 90.84 and its administrative rules WAC 173-700;
 - (b) The Administrative Official determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - (c) The proposed use of credits is consistent with the terms and conditions of the bank’s certification.
- (2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank’s certification.
- (3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

Chapter 16C.08
GEOLOGICALLY HAZARDOUS AREAS

Sections:

16C.08.01 Purpose and Intent

16C.08.02 Mapping and Designation

16C.08.03 Geologically Hazardous Areas Protection Approach

16C.08.04 Supplemental Development Review Procedure for Geologically Hazardous Areas

16C.08.05 General Protection Requirements

16C.08.01 Purpose and Intent

(1) Geologically hazardous areas include those areas susceptible to erosion, sliding, earthquake or other geological events. They pose a threat to the health and safety of the citizens of Yakima County when incompatible development is sited in areas of significant hazard. Some risks due to geologic hazards might be capable of mitigation through engineering, design, or modified construction standards so the level of risk is reduced to an acceptable level. However, when mitigation is not feasible, development within geologically hazardous areas is best avoided.

(2) The purposes of this chapter are to:

- (a) Minimize risks to public health and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas;
- (b) Maintain natural geological processes while protecting existing and new development;
- (c) Establish review procedures for development proposals in geologically hazardous areas.

16C.08.02 Mapping and Designation

(1) Geologically hazardous areas are areas that are susceptible to one or more of the following types of hazards and are designated as critical areas, based on WAC 365-190-~~120(3)080 (4)(b)~~ ~~through (h)~~:

- (a) Erosion hazards;
- (b) Landslide hazards, ~~which in the Yakima County inventory includes:~~
- (c) Oversteepened slope hazards;
- (d) Alluvial fan/flash flooding hazards;
- (e) Avalanche hazards, and;
- (f) Stream undercutting hazards;
- (g) Seismic hazards (referred to below as earthquake hazards); and
- (h) Volcanic hazards;

(2) The approximate location and extent of **Erosion Hazard Areas** are shown on the County's critical area map titled "Erosion Hazard Areas of Yakima County". Erosion hazard areas were identified by using the "*Soil Survey of Yakima County Area, Washington*" and the "*Soil Survey of Yakima Indian Reservation Irrigated Area, Washington, Part of Yakima County*". The analysis utilized the general soil map unit descriptions of severe and very severe hazard of water erosion.

(3) The approximate location and extent of the remaining **Geologically Hazardous Areas** are shown on the County's critical area map titled "Geologically Hazardous Areas of Yakima County". The following geologically hazardous areas, with the corresponding map code in

parenthesis, are mapped and classified using the stated criteria based on WAC 365-190-120(3) ~~080(4) (b) through (h)~~:

- (a) Landslide Hazard Areas (LS) – These include places where landslides, debris flows, or slumps have already occurred. Where sliding is presumed to have occurred within 10,000 years or less is shown as High Risk (LS3) on the map. Slides thought to be older than 10,000 years but still capable of movement are shown as Intermediate Risk (LS2). Areas where slides are absent are unlabeled and combined with other Low Risk areas.
- (b) ~~(i)~~ Oversteepened Slope Hazard Areas (OS) - These include areas with slopes steep enough to create potential problems. High risk areas (OS3) have a high potential to fail, and include slopes greater than 40%, and consist of areas of rock fall, creep, and places underlain with unstable materials. Intermediate Risk areas (OS2) are less likely to fail but are still potentially hazardous. This category also includes some slopes between 15 and 40%. Low Risk areas, unlikely to fail, are unlabeled and combined with other Low Risk categories.
- (c) Alluvial Fan/Flash Flooding Hazard Areas (AF) - These are areas where flash flooding can occur, and are often associated with inundation by debris from flooding. They include alluvial fans, canyons, gullies, and small streams where catastrophic flooding can occur. They do not include all areas where flash flooding may occur with Yakima County. Flooding may also occur in larger streams and rivers, but these are depicted in the "Flood Insurance Study for the Unincorporated Areas of Yakima County," dated March 2, 1998, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps, and any amendments which may thereafter be made by the Federal Emergency Management Agency, rather than on the Geologically Hazardous Areas Map. High Risk areas (AF3) are those most likely to experience flooding. These areas usually involve larger drainage areas, easily eroded sediments, and steeper gradients. Intermediate Risk areas (AF2) have some potential for flash flooding but involve smaller drainages and flatter slopes. Low Risk areas are where flash flooding is unlikely, are unlabeled and combined with other Low Risk areas on the map.
- (d) Avalanche Risk Hazard Areas (AR) - Areas of avalanche hazards are limited (within the mapped boundaries) to areas near the Cascade Crest. High Risk areas (AF3) are those in areas of high snowfall where avalanche scars are visible and slopes are steep to moderately steep. These areas could also be rated OS3. Intermediate Risk areas (AF2) are usually adjacent to AF3 areas but where vegetation is still in place and slopes are moderate. AF2 and AF3 areas are mapped on the basis of aerial photography and observed scars. Climatic data (snowfall, wind direction, etc) are necessary for more detailed mapping. Low Risk areas, where avalanches are unlikely, are unlabeled and combined with other Low Risk geologic hazards.
- (e) ~~(iv)~~ Stream Undercutting Hazard Areas (SU) - These areas are confined to banks near main streams and rivers where undercutting of soft materials may result. High Risk areas (SU3) include steep banks of soft material adjacent to present stream courses. Intermediate Risk areas (SU2) are banks along the edge of a flood plain but away from the present river course. Low Risk areas are unlabeled and combined with other Low Risk areas on the maps.
- (f) Earthquake Activity Hazard Areas (EA) - Recorded earthquake activity in Yakima County is mostly marked by low magnitude events and thus low seismic risk. One exception is an area along Toppenish Ridge where Holocene faulting may have produced earthquakes of

- as much as magnitude 7. Zones of surficial fault scarps are shown on High Risk areas (EA3) while areas adjacent to the scarps are assigned Intermediate Risk (EA2). The rest of the county is Low Risk, are unlabeled, and combined with other low risk hazards.
- (g) Suspected Geologic Hazard Areas (SUS) – These are areas for which detailed geologic mapping is lacking but preliminary data indicate a potential hazard. No risk assessment (1-2-3) is given for these areas. Most are probably OS or LS hazards.
- (h) Risk unknown hazard areas (UNK) - In these areas geologic mapping is lacking or is insufficient to make a determination. All of these areas are associated with other classified geologic hazards, and most are located in remote areas of Yakima County.
- (4) Volcanic Hazard Areas are not mapped but are defined as areas subject to pyroclastic (formed by volcanic explosion) flows, lava flows and inundation by debris flows, mudflows or related flooding resulting from volcanic activity. Volcanic Hazard Areas in Yakima County are limited to pyroclastic (ash) deposits. While Yakima County contains a portion of Mt Adams and is in close proximity to Mt Rainer, and Mt St. Helens, the threat of volcanic hazards is minimal and limited to ash deposition. The more devastating effects of volcanic activity such as lava flows, and lahars (volcanic landslide or mudflow) are not possible due to intervening ridges. No specific protection requirements are identified for volcanic hazard areas.
- (5) This chapter does not imply that land outside mapped geologically hazardous areas or uses permitted within such areas will be without risk. This chapter shall not create liability on the part of Yakima County, any officer, or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

16C.08.03 Geologically Hazardous Areas Protection Approach

- (1) Erosion Hazard Areas – Protection measures for erosion hazard areas will be accomplished by implementing the regulatory standards for erosion and drainage control required under YCC Title 13 (Building Code). Any future stormwater program erosion control measures that may be formally adopted by the Board of County Commissioners shall supersede YCC Title 13 erosion control requirements. Standards to meet YCC Title 13 requirements can be met by the application of the Best Management Practices (BMPs) in the ~~Eastern Washington~~ [Yakima Regional Stormwater Manual](#) (WDOE Publication number 04-10-076) or equivalent manual adopted by Yakima County, or any other approved manual deemed appropriate by the Building Official, including but not limited to applicable Natural Resource Conservation Service (NRCS) Field Office Technical Guide (FOTG) BMP's and the Washington State Department of Transportation Highway Runoff Manual. Application of the Environmental Protection Agency (EPA) "Construction Rainfall Erosivity Waiver" is at the discretion of the Building Official on a case-by-case basis.
- (2) Landslide Hazard Areas - Protection measures for landslide hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (3) Alluvial Fan/Flash Flooding Hazard Areas - Protection measures for alluvial fan/flash flooding hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the

appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; Appendix J Grading; and, Flood Resistant Design and Construction (ASCE-24-98)).

- (4) Stream Undercutting Hazard Areas - Protection measures for stream undercutting hazard areas will be accomplished by Critical Areas review for flood hazards, streams, and Shoreline jurisdiction, in addition to implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (Flood Resistant Design and Construction (ASCE-24-98)).
- (5) Avalanche Hazard Areas - Protection measures for avalanche hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (6) Oversteepened Slope Hazard Areas - Protection measures for oversteepened slope hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (7) Earthquake/Seismic Hazard Area Protection Standards - Protection measures for earthquake/Seismic hazard areas will be accomplished by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (8) Suspected Geologic Hazard Areas and Risk Unknown Hazard Areas - Protection measures for suspected geologic hazard areas and risk unknown hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

16C.08.04 Development Review Procedure for Geologically Hazardous Areas

- (1) The Administrative Official shall make a determination of hazard to confirm whether the development or its associated facilities (building site, access roads, limits of grading/ excavation/ filling, retaining walls, septic drainfields, landscaping, etc.):
 - (a) are located within a mapped geologically hazardous area;
 - ~~(b)~~ (b) are within 500 feet of a mapped landslide hazard area;
 - ~~(c)~~ (c) are abutting, or adjacent to any other mapped geologically hazardous area and may result in or contribute to an increase in hazard, or pose a risk to life and property on or off the site;
 - ~~(d)~~ (d) are located within a distance from the base of an adjacent landslide hazard area equal to the vertical relief that has been determined to be within the runout area of said hazard area;
 - ~~(e)~~ (e) are located within the potential run-out path of a mapped avalanche hazard.

- (2) Developments that receive an affirmative determination of hazard by the Administrative Official under (1) above, must conduct a geologic hazard report as provided in 16C.03.18(4) (Supplemental Report Requirements – Geologically Hazardous Areas), which may be part of a geo-technical report required under additional review below.
- (a) If the geologic hazard report determines no hazard exists or that the project area lies outside the hazard, then no Geologic Hazard review is needed.
 - (b) The Administrative Official is authorized to waive further geologic hazard review for oversteepened slope hazards on a determination that the hazards identified in the geologic hazard report will be adequately mitigated under grading or construction permits.
- (3) Developments that receive an affirmative determination of hazard, but do not meet the provisions of paragraph 2a or 2b above, must:
- (a) Obtain a Critical Areas Development Authorization under 16C.03 (Application and Review Procedures);
 - (b) Submit a geo-technical report that is suitable for obtaining the grading and construction permits that will be required for development. The geo-technical report should incorporate the submitted assessment, include the design of all facilities and include a description and analysis of the risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other critical areas, and;
 - (c) Be consistent with the General Protection Requirements of Section 16C.08.05 (General Protection Requirements).

16C.08.05 General Protection Requirements

- (1) Grading, construction, and development and their associated facilities shall not be located in a geologically hazardous area, or any associated setback for the project recommended by the geo-technical report, unless the applicant demonstrates that the development is structurally safe from the potential hazard, and that the development will not increase the hazard risk onsite or off-site.
- (2) Development shall be directed toward portions of parcels, or parcels under contiguous ownership, that are at the least risk of hazard in preference to lands with higher risk, unless determined to be infeasible in the geo-technical report.
- (3) The geo-technical report shall recommend methods to ensure the information and education about the hazard and any recommended buildable area for future landowners over the long term.
- (4) The applicable requirements of grading and construction permits for developments in hazardous areas must be included in the development proposal and geo-technical report.

Chapter 16C.09

CRITICAL AQUIFER RECHARGE AREAS (CARAs)

Sections:

- 16C.09.01 Purpose and Intent
- 16C.09.02 Designation
- 16C.09.03 Mapping
- 16C.09.04 Submittal Requirements
- 16C.09.05 Performance Standards – General Requirements
- 16C.09.06 Performance Standards – Specific Uses
- 16C.09.07 Uses Prohibited from Critical Aquifer Recharge Areas

16C.09.01 Purpose and Intent

- (1) The Growth Management Act (RCW 36.70A) requires local jurisdictions to protect, through designation and protection, areas with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water. These areas are referred to as Critical Aquifer Recharge Areas (CARAs) in this title.
- (2) Potable water is an essential life sustaining element. Much of Yakima County's drinking water comes from groundwater supplies. Once groundwater is contaminated it can be difficult, costly, and sometimes impossible to clean up. In some cases, the quality of groundwater in an aquifer is inextricably linked to its recharge area.
- (3) The intent of this chapter is to:
 - (a) Preserve, protect, and conserve Yakima County's CARAs from contamination;
 - (b) Establish a protection approach that emphasizes the use of existing laws and regulations, and minimizes the use of new regulations.
- (4) It is not the intent of this ordinance to:
 - (a) Regulate everyday activities (including the use of potentially hazardous substances that are used according to State and Federal regulations and according to label specifications);
 - (b) Enforce or prevent illegal activities;
 - (c) Regulate land uses that use or store small volumes of hazardous substances (including in-field agricultural chemical storage facilities, which do not require permits, or are already covered under existing state, federal, or county review processes and have detailed permit review);
 - (d) Establish additional review for septic systems, which are regulated by the Washington Department of Health and Yakima County Health District as mandated by WAC 246-270, 246-271, 246-272, 246-272A, 246-272B, 246-272C and 246-273;
 - (e) Establish additional review for stormwater control, which are covered under existing County YCC Title 12.10 as required by Washington State Department of Ecology's Eastern Washington Phase II Municipal Stormwater Permit, or;
 - (f) Require review for uses that do not need building permits and/or zoning review.

The above items are deemed to have small risks of CARA contamination or are beyond the development review system's ability to control.

16C.09.02 Designation

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). [CARAs are designated as critical areas](#). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. The following areas have been identified based on local conditions.

- (1) Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten-year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
- (2) Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.
- (3) Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.
- (4) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.
- (5) Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.
- (6) Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology.

16C.09.03 Mapping

- (1) **Mapping Methodology** – The CARAs are depicted in the map titled “Critical Aquifer Recharge Areas of Yakima County”. The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology - “Guidance Document” (<https://fortress.wa.gov/ecy/publications/SummaryPages/0510028.html>- Publication 05-10-028). This map depicts the general location of the critical aquifer recharge areas designated in YCC 16C.09.02. Yakima County has developed a GIS database of the CARA map that shows the location and extent of critical aquifer recharge areas. This database will be used by the County to determine whether proposed developments could potentially impact CARA. All applications for development within the County that are located within a mapped CARA will be required to follow the performance standards of this chapter. The CARA map estimates areas of moderate, high and extreme susceptibility to contamination, in addition to wellhead protection areas. To characterize hydrogeologic susceptibility of the recharge area to contamination, the GIS analysis used the following physical characteristics:

- (a) Depth to ground water;
- (b) Soil (texture, permeability, and contaminant attenuation properties);
- (c) Geologic material permeability;
- (d) Recharge (amount of water applied to the land surface, including precipitation and irrigation).

- (2) **Wellhead Protection Areas** - The CARA map includes those Wellhead Protection Areas for which the County has maps. Wellhead Protection Areas are required for all Class A public water systems in the State of Washington. The determination of a wellhead protection area is based upon the time of travel of a water particle from its source to the well. Water purveyors collect site specific information to determine the susceptibility of the water source to surface sources of contamination. Water sources are ranked by the Washington State Department of Health with a high, moderate or low susceptibility to surface contamination. Wellhead protection areas are defined by the boundaries of the ten (10) year time of ground water travel, in accordance with WAC 246-290-135. For purposes of this chapter, all wellhead protection areas shall be considered highly susceptible.

16C.09.04 Submittal Requirements.

- (1) Applications for any development activity or division of land which requires review by Yakima County and which is located within a mapped Critical Aquifer Recharge Area or Wellhead Protection Area shall be reviewed by the Administrative Official to determine whether hazardous materials (see definitions) will be used, stored, transported, or disposed of in connection with the proposed activity. If there is insufficient information to determine whether hazardous materials will be used, the Administrative Official may request additional information, in addition to the submittal requirements outlined in 16C.03.
- (2) The Administrative Official shall make the following determination:
 - (a) No hazardous materials are involved.
 - (b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance.
 - (c) Hazardous materials are involved and the proposal has the potential to significantly impact Critical Aquifer Recharge and Wellhead Protection Areas; however, sufficient information is not available to evaluate the potential impact of contamination. The County may require a Hydrogeologic Report to be prepared by a qualified groundwater scientist in order to determine the potential impacts of contamination on the aquifer.

16C.09.05 Performance Standards – General Requirements.

- (1) Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
- (2) The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Yakima County Health District.

16C.09.06 Performance Standards – Specific Uses.

- (1) **Storage Tanks.** All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
 - (a) **Underground Tanks.** All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - (i) Prevent releases due to corrosion or structural failure for the operational life of the tank;

- (ii) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
- (iii) Use material in the construction or lining of the tank that is compatible with the substance to be stored.
- (b) Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
- (i) Not allow the release of a hazardous substance to the ground, groundwaters, or surface waters;
- (ii) Have a primary containment area enclosing or underlying the tank or part thereof; and
- (iii) Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
- (2) Vehicle Repair and Servicing.
- (a) Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
- (b) No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity.
- (3) Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.
- (4) Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology and Health.
- (a) Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The State Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).
- (b) Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.
- (5) Proposed new groundwater uses must provide evidence that the proposed water source is physically and legally available and meets drinking water standards.

16C.09.07 Uses Prohibited from Critical Aquifer Recharge Areas.

The following activities and uses are prohibited in critical aquifer recharge areas:

- (1) Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste and inert and demolition waste landfills;
- (2) Underground Injection Wells. Class I, III and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
- (3) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
- (4) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;
- (5) Mining. Hard rock; and sand and gravel mining, unless located within the mineral resource designation; and

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- 3862 (6) Other Prohibited Uses or Activities.
3863 (a) Activities that would significantly reduce the recharge to aquifers currently or potentially
3864 used as a potable water source;
3865 (b) Activities that would significantly reduce the recharge to aquifers that are a source of
3866 significant base flow to a regulated stream.

BOCC Adopted Ord5-2017

Chapter 16C.11
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

16C.11.010 Purpose and Intent

- (1) Wildlife habitat conservation means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability. Wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs ~~land use planning is critically important~~ (WAC 365-190-130~~080~~(15)).
- (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 designate, protect, and conserve natural habitats of upland 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 protections measures described below.
- (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~~ Conservation of wildlife habitat is among the various goals for these public lands. ~~Consequently, one of~~ Yakima County's approaches to protecting all wildlife habitat types on public lands 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~~ will utilize current WDFW data and maps to identify ~~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. 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 from a qualified professional, 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. Where appropriate, agencies will be consulted early in the process to determine potential impacts from the development on wildlife habitat. 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 and are designated as critical areas. 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

- 3958 listed Threatened, Endangered or Sensitive species means all species of wildlife listed as such
3959 by the United States Secretary of the Interior or Commerce.
- 3960 (2) Upland Wildlife Habitat Conservation Areas include State Natural Area Preserves and Natural
3961 Resource Conservation Areas.
- 3962 (3) Upland Wildlife Habitat Conservation Areas include Species and Habitats of Local
3963 Importance. These are habitats or species that due to their declining population, sensitivity to
3964 habitat manipulation or other values make them important on a local level. Habitats of Local
3965 Importance may include a seasonal range or habitat element with which a given species has a
3966 primary association, and which, if altered, may reduce the likelihood that the species will
3967 maintain and reproduce over the long term.
- 3968 (a) Species and Habitats of Local Importance may be identified, for protection under this title.
3969 State or local agencies, individuals or organizations may identify and nominate for
3970 consideration specific species and habitats, or a general habitat type, including streams,
3971 ponds or other features. The WDFW Priority Habitat and Species list for Yakima County
3972 shall be included as a baseline for this list, to be added to be other organizations is included
3973 in this Title as Appendix B.
- 3974 (b) Review of a Species and/or Habitat of Local Importance application is a legislative action,
3975 and shall be processed during the Comprehensive Plan amendment cycle.
- 3976 (c) Species and/or Habitat of Local Importance applications shall be docketed for official
3977 action with the Planning Commission in accordance with Section 16B.10.090
3978 (Development Regulation Amendments) with no fee requirements.
- 3979 (d) The Planning Commission may convene a best available science committee to ensure the
3980 Species and/or Habitat of Local Importance application conforms to RCW 36.70A.172 and
3981 WAC 365-195-900 through WAC 365-195-925.
- 3982 (e) Species and/or Habitat of Local Importance ~~shall be~~ are adopted as a ~~Appendix B of~~ ies to
3983 this title.
- 3984 (f) Species and/or Habitat of Local Importance applications shall be reviewed for conformance
3985 with subsections (g) and (h) below.
- 3986 (g) Applicants for Species and/or Habitat of Local Importance shall present evidence
3987 concerning the criteria set forth in sub-section (h) below, including maps to illustrate the
3988 proposal and habitat management recommendations for use in the administration of this
3989 chapter, and/or:
- 3990 (h) The review of nominated habitats, and habitats for species of local importance shall
3991 consider the following,
- 3992 (i) A seasonal range or habitat element which, if altered, may reduce the likelihood that
3993 the species will maintain or reproduce over the long term;
- 3994 (ii) Areas of high relative density or species richness, breeding habitat, winter range, and
3995 movement corridors;
- 3996 (iii) Habitat with limited availability or high vulnerability to alteration;
- 3997 (iv) Whether these habitats are already identified and protected under the provisions of this
3998 or other county ordinances or state or federal law.

4000 **16C.11.050 Mapping**

- 4001 (1) The approximate location and extent of upland wildlife habitat conservation areas for,
4002 Endangered, Threatened and Sensitive species are shown on the County's critical area map
4003 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 an [initial](#) reference and does not provide a final critical area designation. [Wildlife resource agencies shall be consulted for their expertise on location of habitat conservation areas when insufficient information exists for an area.](#)

(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 [help](#) 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~~ [shall](#) 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 [management recommendations](#) published [by](#) federal, ~~or~~ state [agencies](#), ~~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 a 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.

BOCC Adopted Ord5-2017

YAKIMA COUNTY
CRITICAL AREAS ORDINANCE
Appendix A
Designated Type 2 Stream Corridors

The following stream reaches within Yakima County are designated Type-2 Streams under the Critical Areas Ordinance.

FOUNDATION CREEK:	From the mouth of Hacket Canyon (Sec. 13, T12N, R14E) downstream to the North Fork Ahtanum Creek.
LITTLE RATTLESNAKE CREEK:	From the Wenatchee National Forest boundary (Sec. 25-T15N-R15E) downstream to mouth at Rattlesnake Creek (Sec. 3-T15N-R15N).
MIDDLE FORK AHTANUM CREEK:	From the north boundary of Sec, 25, T12N, R14E, downstream to the North Fork Ahtanum.
MULE DRY CREEK:	From the east boundary of Sec. 24, T9N, R20E, downstream to Satus Creek.
NASTY CREEK:	From the east boundary of Sec. 32, T13N, R15E, downstream to the North Fork Ahtanum Creek.
NILE CREEK:	From the east boundary of Sec. 31, T16N, R15E, downstream to the Naches River.
NORTH FORK AHTANUM CREEK:	From east boundary of Sec. 20, T12N, R14E, downstream to shoreline jurisdiction (Sec. 22, T12N, R14E).
REYNOLDS CREEK:	From the east boundary of Sec. 16, T13N, R15E, to South Fork Cowiche Creek (Sec. 18, T13N, R16E).
ROCK CREEK:	From the south boundary of Sec. 8, T16N, R15E, downstream to the Naches River.
SOUTH FORK COWICHE CREEK:	From the north boundary of Sec. 29, T13N, R15E, downstream to shoreline jurisdiction (Sec. 33, T14N, R16E).

4108	SOUTH FORK AHTANUM CREEK:	From the east boundary of Sec. 32, T12N,
4109		R15E, downstream to shoreline jurisdiction
4110		(the NE 1/4 of the NW 1/4 of Sec. 26,
4111		T12N, R15E).
4112		
4113		
4114	WENAS CREEK:	From North Wenas Road <u>the base of the</u>
4115		<u>Wenas Dam</u> (Sec. 132 <u>T154N-</u>
4116		R18E <u>R17E</u> T14N R18E) downstream to
4117		<u>shoreline jurisdiction of</u> the Yakima River.
4118		
4119	WIDE HOLLOW CREEK:	From South 96 th Ave. downstream to the
4120		municipal boundary for the City of Yakima
4121		(Sec.34-T13N-R18E).
4122		
4123	WILDCAT CREEK:	From the Wenatchee National Forest
4124		boundary (Sec. 25, T14N, R13E)
4125		downstream to the Tieton River.
4126		

BOCC Adopted Ord. 15-291

YAKIMA COUNTY
CRITICAL AREAS ORDINANCE
Appendix B
Priority Habitat and Species (PHS)

**** Important Note ****

These are the species and habitats identified for Yakima County. This list of species and habitats was developed using the distribution maps found in the Priority Habitat and Species (PHS) List (see <http://wdfw.wa.gov/conservation/phs/>). Species distribution maps depict counties where each priority species is known to occur as well as other counties where habitat primarily associated with the species exists. Two assumptions were made when developing distribution maps for each species:

1. There is a high likelihood a species is present in a county, even if it has not been directly observed, if the habitat with which it is primarily associated exists.
2. Over time, species can naturally change their distribution and move to new counties where usable habitat exists.

Distribution maps in the PHS List were developed using the best information available. As new information becomes available, known distribution for some species may expand or contract. WDFW will periodically review and update the distribution maps in PHS list.

<u>Priority Habitats</u>	
<u>Habitat</u>	<u>Priority Area</u>
<u>Aspen Stands</u>	<u>Pure or mixed stands greater than 1 acre</u>
<u>Biodiversity Areas & Corridors</u>	
<u>Inland Dunes</u>	-
<u>Old-Growth/Mature Forest</u>	-
<u>Oregon White Oak Woodlands</u>	<u>Stands greater than 5 acres in size</u>
<u>Shrub-Steppe</u>	-
<u>Riparian</u>	-
<u>Freshwater Wetlands & Fresh Deepwater</u>	-
<u>Instream</u>	-
<u>Priority Habitat Features</u>	
<u>Habitat</u>	<u>Priority Area</u>
<u>Caves</u>	-
<u>Cliffs</u>	<u>Greater than 25 feet high and occurring below 5000 ft.</u>
<u>Snags and Logs</u>	-
<u>Talus</u>	-

<u>Fish</u>			
<u>Species</u>	<u>Priority Area</u>	<u>State Status</u>	<u>Federal Status</u>

Pacific Lamprey	Any Occurrence	-	Species of Concern
River Lamprey	Any Occurrence	Candidate	Species of Concern
White Sturgeon	Any Occurrence	-	-
Leopard Dace	Any Occurrence	Candidate	-
Umatilla Dace	Any Occurrence	Candidate	-
Mountain Sucker	Any Occurrence	Candidate	-
Bull Trout	Any Occurrence	Candidate	Threatened
Chinook Salmon	Any Occurrence	-	-
Coho	Any Occurrence	-	-
Kokanee	Any Occurrence	-	-
Rainbow Trout/ Steelhead	Any Occurrence	Candidate *	Threatened *
Sockeye Salmon	Any Occurrence	-	-
Westslope Cutthroat	Any Occurrence	-	-
		* Steelhead only	* Steelhead only

Reptiles and Amphibians			
Species	Priority Area	State Status	Federal Status
Cascade Torrent Salamander	Any occurrence	Candidate	-
Larch Mountain Salamander	Any occurrence	Sensitive	Species of Concern
Van Dyke's Salamander	Any occurrence	Candidate	Species of Concern
Columbia Spotted Frog	Any occurrence	Candidate	-
Western Toad	Any occurrence	Candidate	Species of Concern
Common Sharp-tailed Snake	Any occurrence	Candidate	Species of Concern
Striped Whipsnake	Any occurrence	Candidate	-
Sagebrush Lizard	Any occurrence	Candidate	Species of Concern

Birds			
Species	Priority Area	State Status	Federal Status
Western grebe	Regular concentrations, Breeding areas, Migratory stopovers, Regular occurrences in winter	Candidate	-
E WA breeding concentrations of: Grebes, Cormorants	Breeding areas	-	-

E WA breeding: Terns	Breeding areas	-	-
Black-crowned Night-heron	Breeding areas	-	-
Great Blue Heron	Breeding areas	-	-
Cavity-nesting ducks: Wood Duck, Barrow's Goldeneye, Common Goldeneye, Bufflehead, Hooded Merganser	Breeding areas	-	-
Harlequin Duck	Breeding areas	-	-
Tundra Swan	Regular concentrations	-	-
Waterfowl Concentrations	Significant breeding areas, Regular concentrations in winter	-	-
Bald Eagle	Breeding areas, Communal roosts, Regular concentrations	Sensitive	Species of Concern
Ferruginous Hawk	Breeding areas, including alternate nest sites. If breeding area is not known, approximate with a 7.0 km² (4.35 mi²) area around known nest sites, foraging areas	Threatened	Species of Concern
Golden Eagle	Breeding and foraging areas	Candidate	-
Northern Goshawk	Breeding areas, including alternate nest sites, post-fledging foraging areas	Candidate	Species of Concern
Peregrine Falcon	Breeding areas, Regular occurrence	Sensitive	Species of Concern
Prairie Falcon	Breeding areas	-	-
Chukar	Regular concentrations in WDFW primary	-	-

	management zones for Chukar		
Ring-necked Pheasant	Self-sustaining birds observed in regular concentrations in WDFW's eastern Washington Primary Management Zone for pheasant	-	-
Sage Grouse	Breeding areas, leks, Regular concentrations	Threatened	Candidate
Sooty Grouse	Breeding areas, Regular concentrations	-	-
Wild Turkey	Regular concentrations and roosts in WDFW's Primary Management Zones for wild turkeys	-	-
Sandhill Crane	Breeding areas, Regular concentrations, migration staging areas	Endangered	-
E WA breeding occurrences of: Phalaropes, Stilts and Avocets	Breeding areas	-	-
Band-tailed Pigeon	Regular concentrations, Occupied mineral sites	-	-
Yellow-billed Cuckoo	Any occurrence	Candidate	Candidate
Burrowing Owl	Breeding areas, foraging areas, Regular concentrations	candidate	Species of Concern
Flammulated Owl	Breeding sites, Regular occurrences	Candidate	-
Spotted Owl	Any occurrence	Endangered	Threatened

Vaux's Swift	Breeding areas, Communal roosts	Candidate	-
Black-backed Woodpecker	Breeding areas, Regular occurrences	Candidate	-
Lewis' Woodpecker	Breeding areas	Candidate	-
Pileated Woodpecker	Breeding areas	Candidate	-
White-headed Woodpecker	Breeding sites, Regular occurrences	Candidate	-
Loggerhead Shrike	Regular occurrences in breeding areas, Regular concentrations	Candidate	-
Sage Sparrow	Breeding areas, Regular occurrences in suitable habitat during the breeding season	Candidate	-
Sage Thrasher	Breeding areas, Regular occurrences in suitable habitat during the breeding season	Candidate	-

4150

Mammals			
Species	Priority Area	State Status	Federal Status
Merriam's Shrew	Any occurrence	Candidate	-
Preble's Shrew	Any occurrence	Candidate	Species of Concern
Roosting Concentrations of: Big-brown Bat, Myotis bats, Pallid Bat	Regular concentrations in naturally occurring breeding areas and other communal roosts	-	-
Townsend's Big-eared Bat	Any occurrence	Candidate	Species of Concern
Black-tailed Jackrabbit	Regular concentrations	Candidate	-
White-tailed Jackrabbit	Regular concentrations	Candidate	-

Western Gray Squirrel	Any occurrence	Threatened	Species of Concern
Townsend's Ground Squirrel	Breeding Area, Occurrence, Regular concentrations	Candidate	Species of Concern
Cascade Red Fox	Any occurrence	Candidate	-
Fisher	Any occurrence	Endangered	Candidate
Marten	Regular occurrence	-	-
Wolverine	Any occurrence	Candidate	-
Bighorn Sheep	Breeding areas, Regular concentrations	-	-
Columbian Black-tailed Deer	Regular concentrations, Migration corridors	-	-
Mountain Goat	Breeding areas, Regular concentrations	-	-
Northwest White-tailed Deer	Migration corridors, Regular concentrations in winter	-	-
Elk	Calving Areas, Migration Corridors, Regular concentrations in Winter and in foraging areas along coastal waters	-	-
Rocky Mountain Mule Deer	Breeding areas, Migration corridors, Regular concentrations in winter	-	-

Invertebrates			
Species	Priority Area	State Status	Federal Status
Mardon Skipper	Any occurrence	Endangered	Species of Concern
Silver-bordered Fritillary	Any occurrence	Candidate	-

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1
2 **YAKIMA COUNTY PLANNING COMMISSION**
3

4
5 **IN THE MATTER OF CONSIDERING CHANGES)**
6 **TO YCC TITLE 16C YAKIMA COUNTY)**
7 **CRITICAL AREAS ORDINANCE AS PART OF)**
8 **THE 2017 GROWTH MANAGEMENT ACT)**
9 **REQUIRED UPDATE)**
10
11

12 WHEREAS, pursuant to Chapter 36.70A RCW, Yakima County adopted a Critical Areas
13 Ordinance in 1994 to satisfy certain requirements related to the Washington State Growth
14 Management Act (GMA); and,
15

16 WHEREAS, in 2007 the Board of Yakima County Commissioners updated the Critical
17 Areas Ordinance (Ord. 13-2007) as part of the County first GMA update; and,
18

19 WHEREAS, RCW 36.70A.130 requires that Yakima County be a “fully planning” county;
20 shall review and , if needed, revise its comprehensive plan and development regulations to
21 reflect local needs, new data, and current laws on or before June 30, 2017, and every eight
22 years thereafter; and,
23

24 WHEREAS, as part of its comprehensive plan and development regulations update
25 process, the County has established a public participation program, YCC 16B.10, which sets
26 forth minimum requirements for ensuring adequate public notification and opportunities for
27 comment and participation in the amendment process; and,
28

29 WHEREAS, the Yakima County Comprehensive Plan and Regulatory Amendment
30 Procedures Ordinance, codified as YCC 16B.10, requires the Planning Commission to hold a
31 public hearing on any proposed comprehensive plan or development regulation text or
32 map amendments prior to making a recommendation to the Board of Commissioners; and,
33

34 WHEREAS the Planning Commission reviewed the proposed changes to the existing
35 Critical Areas Ordinance at study sessions on February 8, 2017, February 22, 2017, March 8,
36 2017, and March 22, 2017; and,
37

38 WHEREAS, the Yakima County Planning Commission has held a public hearing on
39 April 12, 2017 at the Yakima County Resource Center Meeting Room for taking public
40 testimony on the Proposed Changes to the Existing Critical Areas Ordinance; and,
41

42 WHEREAS, the Yakima County Planning Commission has held a public hearing on
43 May 3, 2017 and May 10, 2017 at the Yakima County Resource Center Meeting Room for
44 deliberations on the Proposed Changes to the Existing Critical Areas Ordinance; and,
45

46 WHEREAS, the Yakima County Planning Commission adopted a motion requesting
47 the Board of County Commissioners to APPROVE the proposed update to the existing
48 Critical Areas Ordinance;
49

50 NOW THEREFORE, the Yakima County Planning Commission hereby makes and enters
51 the following:
52

53 I. REASONS FOR ACTION

54

55 RCW 36.70A, the Washington State Growth Management Act (GMA), requires cities and
56 counties to designate critical areas (environmentally sensitive areas) and to adopt
57 development regulations for their protection. The GMA lists the following environmentally
58 sensitive areas as critical areas: 1) frequently flooded areas; 2) wetlands; 3) geologically
59 hazardous areas; 4) fish and wildlife habitat conservation areas; and, 5) critical aquifer
60 recharge areas.
61

62 The GMA requires development regulations to be reviewed and revised to ensure the
63 regulations comply with the GMA. Yakima County most recently updated the Critical Areas
64 Ordinance in 2007, with appeals resolved in 2013. RCW 36.70A.130 (5)(c) requires Yakima
65 County to review and revise development regulations, including the Critical Areas
66 Ordinance (CAO), on or before June 30, 2017.
67

68 In response to this, the Yakima County Planning Commission reviewed drafts of the CAO that
69 addressed the GMA updates as well as comments received from interested parties. The
70 Planning Commission has also accepted verbal and written testimony from agencies and
71 the public.
72

73 The Yakima County Planning Commission enters the following:
74

75 II. FINDINGS OF FACT

76

77 -1-
78
79

80 Provisions of the Growth Management Act (GMA) require each county and city in
81 Washington to adopt development regulations that protect critical areas that are required
82 to be designated under the GMA. The GMA identifies the following areas and ecosystems
83 as critical areas: a) wetlands; b) areas with a critical recharging effect on aquifers used for
84 potable water; c) fish and wildlife habitat conservation areas; d) frequently flooded areas;
85 and e) geologically hazardous areas.
86

87 -2-
88

89 Yakima County's current Critical Areas Ordinance Update addresses Washington State
90 updates to the Growth Management Act relating to protection of Critical Areas. The

91 Planning Commission held a study session on February 8, 2017 to review the updates to the
92 CAO in order to meet the GMA required changes.

93
94 -3-
95

96 Yakima County's current Critical Areas Ordinance Update addresses comments received by
97 those parties that commented on protection of Critical Areas. The Planning Commission
98 held study sessions on February 22, 2017, March 8, 2017, March 22, 2017, May 3, 2017 and
99 May 10, 2017 to discuss those comments received and the changes to the draft CAO
100 resulting from those comments.

101
102 -4-
103

104 The Planning Commission conducted a public hearing on April 12, 2017. Verbal testimony
105 was taken. However, due to concern over changes to the CAO resulting from that
106 testimony, written comments were allowed until April 21, 2017.

107
108 -5-
109

110 Environmental review has been conducted for the proposed updates to the existing Critical
111 Areas Ordinance and the Yakima County Planning Commission concurs with the
112 Determination of Non-Significance issued by the Planning Division.

113
114 -6-
115

116 The exhibits to this recommendation by the Planning Commission being forwarded to the
117 County Commissioners consists of the following:

118 Exhibit A: *PC Recommended Draft CAO.*

119 Exhibit B: *Comments and responses to written record submitted at the April 12, 2017 PC*
120 *CAO Hearing.*

121 Each of the above is hereby incorporated by reference within these Findings of Fact.

122
123 -7-
124

125 During the course of the public hearing and during the time within which testimony was
126 being accepted for the record, all written comments and Planning Commission minutes
127 were considered by the Planning Commission. These exhibits are hereby incorporated by
128 reference within these Findings of Fact.

129
130 -8-
131

132 Based on the testimony received at the April 12, 2017 Public Hearing and the May 3, 2017
133 and May 10, 2017 Deliberations, the Planning Commission proposes the Board of Yakima
134 County Commissioners adopt the Yakima County Critical Areas Ordinance as drafted,
135 based on the Planning Commission's motions listed in Exhibit B - Comments and responses to
136 written record submitted at the April 12, 2017 PC CAO Hearing.

137
138
139

III. RECOMMENDATION

In view of the above Reasons for Action and Findings of Fact, and the results of the public hearing on April 12, 2017 and the deliberations on May 3, 2017 and May 10, 2017, the Planning Commission hereby RECOMMENDS that the Board of Yakima County Commissioners:

1. Take actions to approve the proposed updates to the existing Critical Areas Ordinance that are currently under consideration for the update.

Voting in favor of the findings and recommendation:

Zella West, Chair

Ed Burns, Vice Chair

Michael Shuttleworth


Nancy Charron

Ashley Garza

John Crawford

Jerry Craig

Attest:


Thomas D. Carroll,
Secretary

Voting against the findings and recommendation:

Dated: May 10, 2017

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Chapter 16C.01
GENERAL PROVISIONS

Sections:

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16C.01.02	Language Interpretation
16C.01.03	Purpose of Title
16C.01.04	Intent of Title
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16C.01.08	Severability

16C.01.01 Title and Authority

Yakima County Code (YCC) Title 16C is established pursuant to RCW 36.70A.060 (Growth Management Act Natural resource lands and critical areas -- Development regulations), RCW Chapter 43.21C (State Environmental Policy Act), [RCW 86.16](#),^[BG1] and federal requirements for eligibility in the National Flood Insurance Program, pursuant to the Code of Federal Regulations (CFR) [44CFR, Parts 59 and 60](#),^[BG2]. This title shall be known as the "Critical Areas Ordinance of Yakima County, Washington."

16C.01.02 Language Interpretation

Unless specifically defined in Chapter 16C.02, words, phrases and terms in this title shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application. "Shall" is mandatory; "may" is discretionary and does not impose a requirement; "should" is always advisory; "include(s)" means includes but not limited to. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural; and the plural, the singular.

16C.01.03 Purpose of Title

The purpose of Title 16C is [the following](#):

[\(1\) Designate, 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.](#)

[\(2\) ~~to ensure~~ to establish](#) a single, uniform system of procedures and standards ~~to be~~ applied to development within designated critical areas of unincorporated Yakima County.

16C.01.04 Intent of Title

(1) Title 16C establishes policies, standards, and other provisions pertaining to development within designated critical areas regulated under the provisions of the Growth Management Act (RCW 36.70A), and development regulated under the National Flood Insurance Program [and RCW 86.16](#),^[BG3]. Additional purpose and intent for the protection of critical areas is provided in the chapter on each subject. Stream corridors, ~~flood hazard areas~~ [frequently flooded areas](#),^[BG4] wetlands, critical aquifer recharge areas, geologically hazardous areas and fish and wildlife habitat areas constitute Yakima County's critical areas. These areas are of special concern to the people of Yakima County and the state of Washington because they are environmentally sensitive lands, or hazardous areas, which ~~comprise~~ [compose](#),^[BG5] an

important part of the county's natural resource base. The policies, standards and procedures of this title are intended to:

- (a) Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions, particularly the functional properties of stream corridors and other hydrologically related critical areas;
 - (b) Prevent further degradation of critical areas;
 - (c) Conserve, protect and, where feasible, restore essential or important natural resources.
 - (d) Protect the public health, safety and general welfare;
 - (e) Further the goals and objectives of the Yakima County Comprehensive Plan and all of its elements;
 - (f) Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A), and the National Flood Insurance Program;
 - (g) Recognize and protect private property rights;
 - (h) Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of Adjustment, Reasonable Use provisions and Non-Conforming Use and Facility provisions;
 - (i) Recognize 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 Chapter 78.44.
- (2) In addition, the policies, standards and procedures of this title:
- (a) Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective dates of provisions in the Critical Areas Ordinance;
 - (b) Are not intended to result in an unconstitutional taking of private property;
 - (c) Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance; but rather to utilize restoration as a tool to mitigate impacts of new development;
 - (d) Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with non-regulatory tools in as balanced a manner as possible;
 - (e) Are not intended to prohibit the use of valid water rights.

16C.01.05 Applicability

- (1) Except as provided in subsections (3) ~~and (4)~~ below, the provisions of this title shall apply to any new development, construction or use within the unincorporated portion of Yakima County designated as a critical area, irrespective of parcel boundaries, outside Shoreline jurisdiction, as determined by the Shoreline Master Program (YCC Title 16D), and upon any land mapped and designated as a special flood hazard area under the National Flood Insurance Program or as a frequently flooded area designated by this title ~~or as a frequently flooded area designated by this title~~ ^{BG6}; however, this title does not apply to the situations below, except that the Flood Hazard protection provisions of Chapters 16C.05.20 through 16C.05.72 will continue to apply as determined by the applicability provision in 16C.05.20:
- (a) Within critical areas designated by this title or amendments that may later be adopted, there may exist lots, structures and uses which were lawfully established before this title was initially adopted, amended or readopted, as provided below, but which would be

subsequently prohibited, regulated or restricted under this ordinance. It is the intent of this title to permit these pre-existing legal non-conformities to continue without requirement to change said non-conformity until such time as conformance is required through permits for development in the future. The adoption and amendment dates of the relevant regulations are provided below;

i) Critical Areas Ordinance adopted July 12, 1994;

ii) Critical Areas Ordinance amended October 1, 1995 ~~(effective date)~~;

iii) Flood Hazard Ordinance adopted June 5, 1985;-

iv) Critical Areas Ordinance amended December 15, 2007 (GMA Update);

~~iii)v~~ Critical Areas Ordinance amended June 30, 2017 (GMA Update).

(b) Critical areas on federally owned lands are not subject to this title;

(c) Forest practices, as defined by this title, carried out under a Washington Department of Natural Resources Forest Practice permit are not subject to this title, except those that involve a conversion of forest land to a non-forestry use, involve a conversion option harvest plan, or take place on lands platted after January 1, 1960;

(d) Livestock grazing on publicly owned land, when carried out under an agreement that includes a resource management plan that will be monitored by a public entity is not subject to this title;

(e) Changing agricultural crops within an existing farming operation is not considered new development, construction or use, provided that the existing area under agricultural production is not extended further into a vegetative buffer identified under 16C.06.16, and provided that the natural contour of the land subject to this title is not altered by excavation and filling;

(f) Minor, temporary or transient activities, including those of a recreational nature, that do not alter the environment or require a dedicated staging area, use area, or route are not subject to this title, and including temporary signs (election, sale, rent, etc.);

(g) Critical Areas within the exterior boundaries of the Yakama Nation that are located within the designated Closed Areas or not under County jurisdiction as a result of the Supreme Court decision COUNTY OF YAKIMA et. al. v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION (1991) are not subject to this title;

(h) Mining, as defined by this title, that is carried out under a Washington Department of Natural Resources reclamation permit is not subject to, the geologically hazardous areas provisions of this title for erosion hazard areas, oversteepened slope hazard areas, landslide hazard areas and suspected geologic hazard areas. Other critical areas provisions continue to apply.

(2) Other rules and regulations, including the Yakima County Unified Land Development Code (YCC Title 19), Shoreline Master Program (YCC Title 16D), and the Building and Construction Ordinance (YCC Title 13), shall remain in full force and effect as they apply to a designated critical area. Wherever the requirements of Title 16C conflict with the requirements of the applicable Zoning Ordinance, the Subdivision Ordinance or any other lawfully adopted County rules or regulations, the most restrictive standards shall govern.

(3) Yakima County has opted into the Voluntary Stewardship Program (VSP), an alternative to regulatory protection of critical areas on agricultural lands. A working group comprised of agricultural groups, environmental groups, and the Yakama Nation is developing a work plan that identifies goals and benchmarks to protect critical areas while maintaining the viability of agriculture through voluntary, incentive-based measures (WAC 365-191-010(1)).

- a) If the work plan developed by the VSP working group is approved by the Washington State Conservation Commission, the provisions or standards of this title will not apply to agricultural activities, defined as agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation (RCW 36.70A.703(1) and RCW 90.58.065).
- b) If the work plan is not approved by the Washington State Conservation Commission, or fails to meet goals and benchmarks, the provisions and policies of the title will apply to agricultural activities (RCW 36.70A.735).

~~(2) Due to the requirements of Substitute Senate Bill 5248, the provisions or standards of this title shall not apply to agricultural activities in certain areas, as defined below. Such agricultural activities are still subject to the requirements of YCC Title 16A as adopted October 1, 1995.~~

~~(a) "Agricultural activities" means agricultural uses and practices currently existing or legally allowed on rural land or agricultural land designated under RCW 36.70A.170 including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, when the replacement facility is no closer to a critical area than the original facility; and maintaining agricultural lands under production or cultivation.~~

~~(3) Due to the requirements of Engrossed Substitute House Bill (ESHB) 1933, the provisions of this title shall apply to any new development, construction or use within the unincorporated portion of Yakima County designated as a critical area inside Shoreline jurisdiction from the effective date of this title until the date of the next subsequent update of the Shoreline Master Program (anticipated to be YCC Title 16D), as approved by the Washington Department of Ecology per RCW 90.58.090. After the Shoreline Master Program (SMP) is approved, critical areas within Shoreline jurisdiction shall be governed by the SMP.~~

16C.01.06 Science and Protection of Anadromous Fish

This title has been updated consistent with the requirements for:

- (1) Using the best available science as required by RCW 36.70A.172 (Critical areas -- Designation and protection -- Best available science to be used) and WAC 365-195-900 through WAC 365-195-920 (BAS Background and purpose);
- (2) Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish (salmon, steelhead, pacific lamprey, etc.) and their habitat, as

required by RCW 36.70A.172 (Best available science to be used) and WAC 365-195-925 (Criteria for demonstrating "special consideration" has been given to anadromous fisheries).

16C.01.08 Administrative Authority

1) The Yakima County Public Services Department - Planning Division shall be responsible for the general administration of this title. The Planning Division Manager or the Manager's designee shall serve as the Administrative Official of this title, except as noted in Chapters 16C.05.20 through 16C.05.72. The Administrative Official shall establish procedures for implementation of this title.

(a) Where the provisions of these regulations may be unclear in special circumstances, or where judgment must be made because of the nature of the language used, the Administrative Official shall make such interpretations. A separate record of all interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the Administrative Official for its effect or influence on the pending action.

(b) A written request for interpretation of any provision of this title, or any rule or regulation adopted pursuant to this title may be submitted to the Administrative Official. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. Interpretations shall be processed in accordance with YCC Title 16B.03.070.

16C.01.09 Severability

If any provision of the ordinance codified in this title, or its application to any person or legal entity or circumstances is held to be invalid, the remainder of said ordinance or the application of the provision to other persons or legal entities or circumstances shall not be affected.

Chapter 16C.02
DEFINITIONS

16C.02.001 Definitions Generally

(1) Whenever the words and terms set forth in this chapter appear in this title, they shall be given the meaning attributed to them by this chapter. References to specific provisions of YCC Title 13 and the International Building Codes, statutes and Washington Administrative Code provide greater detail for purposes of administering this title.

(2) Definitions listed in this chapter shall be applied to all critical areas, including Flood Hazard Areas, unless the definition itself identifies the term as applying to Flood Hazard administration, in which case the definition only applies to that situation.

16C.02.005 Abutting

"Abutting" means bordering upon, to touch upon, or in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

16C.02.010 Adjacent

"Adjacent" means to be nearby and not necessarily abutting.

16C.02.012 Administrative Official

"Administrative Official" means the duly appointed Planning Division Manager of the Public Services Department, or his designee, or the relevant decision maker identified in YCC Title 16B (Project Permit Administration); synonymous with "administrator" or "director."

16C.02.020 Agricultural Activities

"Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

16C.02.025 Alluvial fan

"Alluvial fan" is a low, outspread, relatively flat to gently sloping feature, shaped like an open fan or a segment of a cone, deposited by a stream at the place where it issues from a valley upon a plain or broad valley, or where a tributary stream is near or at its junction with the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

16C.02.030 Applicant

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development, construction or use on a site.

16C.02.035 Aquifer

"Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

16C.02.040 Critical Aquifer Recharge Area

"Critical Aquifer Recharge Area" means an area with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water.

16C.02.042 Bank

"Bank" means the land surface above the ordinary high water mark that abuts a body of water and contains it to the bankfull depth.

16C.02.043 Bankfull depth

"Bankfull depth" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section.

16C.02.044 Base Flood

"Base Flood" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the flood having a one percent chance of being equaled or exceeded in any given year. (Ref. IBC 1612.2)

16C.02.045 Base Flood Elevation

"Base flood elevation" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). (Ref. IBC 1612.2)

16C.02.046 Basement

"Basement" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 1612.2)

16C.02.055 Bed

"Bed" means the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

16C.02.060 Bedrock

"Bedrock" means in-place solid rock.

16C.02.065 Berm

"Berm" means a mound of earth material used as a protective barrier or to control the direction of water flow.

16C.02.067 Best Management Practices

"Best Management Practices" or "BMPs" means schedules of activities, practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in a combination prevent or reduce adverse impacts to the environment.

16C.02.070 Bioengineering

"Bioengineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

16C.02.075 Breakwater

"Breakwater" means a fixed or floating off-shore structure that protects the shore from wave action or currents.

16C.02.080 Bulkhead

"Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

16C.02.085 Channel

"Channel" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

16C.02.090 Channel Migration Zone

"Channel Migration Zone" is the area where the stream channel is likely to shift or migrate to over time.^[BG7]

16C.02.092 Chief Building Official

"Chief Building Official" or "building official" means the manager of the Building and Fire Safety Division of the Department of Public Services or designee.

16C.02.095 Classification

"Classification" means the definition of value and hazard categories to which critical areas and natural resource lands will be assigned.

16C.02.100 Clearing

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

16C.02.110 Compaction

"Compaction" means compressing soil through some mechanical means to make it denser.

16C.02.115 Confinement Feeding Operation

"Confinement feeding operation" means the use of structures or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep, or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms, but does not include animal husbandry and normal farming practices.

16C.02.120 Construction

"Construction" means the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.

16C.02.122 Critical Areas

"Critical Areas" include the following areas and ecosystems:

- a) Wetlands;
- b) Areas with a critical recharging effect on aquifers used for potable water;
- c) Fish and wildlife habitat conservation areas;
- d) Frequently flooded areas; and
- e) Geologically hazardous areas.^[BG8]

16C.02.125 Designated

"Designated" means formal legislative action to identify and describe a critical area.

16C.02.130 Department

"Department" means the Yakima County Public Services Department, Planning Division.

16C.02.135 Development

"Development" means the division of land into lots or parcels and any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, clearing, paving, excavation or drilling operations, storage of equipment or materials, or any other activity which results in the removal of vegetation or in the alteration of natural site characteristics.^[BG9]
~~"Development" means the division of land into lots or parcels in accordance with the county Subdivision Ordinance, and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or temporary modification of a site up to, but not including, construction as defined in this chapter. For the purpose of Chapters 16C.05.20 through 16C.05.72, "development" also means any manmade change to improved or unimproved real estate located within the special flood hazard area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or permanent storage of equipment and works defined in this chapter. (Ref. IBC-G 201.2)~~

16C.02.140 Dike

"Dike" means an embankment to prevent flooding by a stream or other water body. A dike is also referred to as a levee.

16C.02.145 Dock

"Dock" means a structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

16C.02.150 Dredging

"Dredging" means removal of earth from the bed of a stream, lake, or pond for the purpose of increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations.

16C.02.160 Earth Material

"Earth material" means any rock, natural soil, or combination thereof.

16C.02.170 Enhance

"Enhance" means to strengthen any of the basic functional properties listed in Section 16C.06.05 that exist but do not perform at optimum efficiency. "Optimum" refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

16C.02.175 Ephemeral Stream

"Ephemeral stream" means a stream that flows only in response to precipitation with no groundwater association, usually less than 30 days per year. The lack of any groundwater association results in a lack of a distinctive riparian vegetation compared to the surrounding landscape.

16C.02.180 Erosion

"Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

16C.02.190 Excavation

"Excavation" means the mechanical removal of earth material.

16C.02.200 Fill

"Fill" means the addition of any material, such as (by way of illustration) earth, clay, sand, rock, gravel, concrete rubble, wood chips, bark, or waste of any kind, which is placed, stored or dumped upon the surface of the ground resulting in an increase in the natural surface elevation. The physical structure of a shore stabilization structure shall not be considered fill. However, fill placed behind the structure is considered fill. Stream bed manipulation for irrigation diversions shall not be considered fill.

16C.02.203 Fish and Wildlife Habitat Conservation Areas

"Fish and wildlife habitat conservation areas" are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered,

may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. These areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. Natural watercourses such as streams and rivers that carry irrigation water are not considered part of these artificial features.

16C.02.205 Flood

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

16C.02.206 Flood Hazard Permit

"Flood hazard permit" means written approval applied for and obtained in accordance with such rules and regulations as are established under this title.

16C.02.207 Flood Insurance Rate Maps

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. Preliminary updated Flood Insurance Rate Maps are maps that have been accepted by FEMA, but are not yet effective. [BG10]

16C.02.208 Flood Insurance Study

"Flood insurance study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

16C.02.209 Floods of Record

"Floods of Record" are areas identified as inundated during the flood of record, identification of areas subject to flooding, or stream systems where the path of floodwaters can be unpredictable. [BG11]

16C.02.210 Floodplain

"Floodplain" means a land area adjoining a river, stream, watercourse or lake which has been determined likely to flood. The extent of the floodplain may vary with the frequency of flooding being considered. "Flood plain" is synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year.

16C.02.215 Flood-prone

"Flood-prone" means a land area for which a floodway and floodplain has not been determined with respect to any specific flood frequency, but for which the potential for flooding can be identified by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.

16C.02.216 Flood-proofing

"Flood-proofing" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to lands, water and sanitary facilities, structures and contents of buildings.

16C.02.220 Floodway

"Floodway" means the regular channel of a river, stream, or other watercourse, plus the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

16C.02.225 Floodway Fringe

"Floodway fringe" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means that portion of a floodplain which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

16C.02.230 Forest Land

"Forest land" means land primarily devoted to forest practices activities.

16C.02.240 Forest Practices

"Forest practices" means any activity conducted on or directly pertaining to forestland and relating to growing, harvesting, or processing timber, including but not limited to:

- a) Road and trail construction, including forest practices hydraulic projects that include water crossing structures, and associated activities and maintenance;
- b) Harvesting, final and intermediate;
- c) Pre-commercial thinning;
- d) Reforestation;
- e) Fertilization;
- f) Prevention and suppression of diseases and insects;
- g) Salvage of trees; and
- h) Brush control. [BG12]

~~"Forest practices" means activities conducted under federal forest practices approval or under a Forest Practices permit reviewed and approved by the Washington Department of Natural Resources pertaining to the management of forest land, including growing, managing, harvesting, and interim storage of merchantable timber for commercial value, as well as incidental activities reviewed under federal or state approval, such as road construction and maintenance (including bridges) and mining activities.~~

16C.02.245 Frequently Flooded Areas

"Frequently Flooded Areas" are defined by:

- a) Flood Insurance Rate Maps (FIRM) from FEMA;
- b) Preliminary updated FIRM maps from FEMA;
- c) Floods of record; and
- d) Mapped channel migration zones; and [BG13]
- e) Flood-prone.

16C.02.250 Grade

"Grade" means the vertical location of the ground surface. "Natural grade" is the grade as it exists or may have existed in its original undisturbed condition. "Existing grade" is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification. "Rough grade" is a stage where grade conforms approximately to an approved plan. "Finish grade" is the final grade of the site which conforms to an approved plan.

16C.02.255 Grading

"Grading" means any excavation, filling, or combination thereof.

16C.02.260 Groundwater

"Groundwater" means water that occurs beneath the land surface, also called subsurface water or subterranean water. Groundwater includes water in the zone of saturation of a water-bearing formation.

16C.02.061 Hazardous Materials

"Hazardous materials" means any material, either singularly or in combination, that is a physical or health hazard as defined and classified in the International Fire Code, whether the materials are in usable or waste condition; any material that may degrade groundwater quality when improperly stored, handled, treated, used, produced, recycled, disposed of, or otherwise mismanaged; any hazardous waste, hazardous substance, dangerous waste, or extremely hazardous waste that is a physical or health hazard as defined or classified in Chapter 70.105 RCW and Chapter 173-303 WAC, whether the materials are in usable or waste condition; and petroleum or petroleum products that are in a liquid phase at ambient temperatures, including any waste oils or sludge.

16C.02.263 Hydrologically Related Critical Areas (HRCA)

"Hydrologically related critical areas (HRCA)" include all those areas identified in Section 16C.06.03, within Yakima County that are important and deserving of protection by nature of their value for the functional properties found in Section 16C.06.05.

16C.02.266 Hyporheic

"Hyporheic" means a groundwater area adjacent to and below channels where water is exchanged with channel water and water movement is mainly in the downstream direction.

16C.02.270 Intermittent Streams

"Intermittent stream" means a stream which flows only during certain times of the year, with inputs from precipitation and groundwater, but usually more than 30 days per year. The groundwater association generally produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

16C.02.275 Lake or pond

"Lake or pond" means ~~at~~ any inland body of standing water. The term includes the reservoir or expanded part of a river behind a dam, but excludes a man-made body of water created for surface mining purposes.

16C.02.281 Lowest Floor

Lowest floor" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title.

16C.02.282 Manufactured Home

"Manufactured home" means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) and Yakima County Code Titles 13 and 19 separately define and distinguish between "manufactured home" and "mobile home" according to federal or state construction codes for such dwellings, the term "manufactured home" shall include "mobile home" for regulatory purposes under this chapter. The term shall not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law. For floodplain management purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and other similar vehicles shall be considered manufactured homes when placed on a site for greater than one hundred eighty days.

16C.02.283 Manufactured Home Park or Subdivision

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale in accordance with YCC Title 19.

16C.02.284 Manufactured Home Park or Subdivision, Existing

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 1, 1995, the effective date of these floodplain management regulations.

16C.02.285 Minerals

"Minerals" means gravel, sand and metallic and non-metallic substances of commercial value.

16C.02.290 Mining

"Mining" means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation (Section 16C.06.20).

16C.02.295 Native

"Native" means indigenous to or originating naturally within Yakima County.

16C.02.300 Natural Conditions

"Natural conditions" means those conditions which arise from or are found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

16C.02.302 New Construction

"New construction" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means structures for which the start of construction commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program. October 1, 1995, the effective date of the ordinance codified in Title 16A shall be used for defining the term "new construction" as it applies to all other Critical Areas requirements established under Title 16A by Ordinance 8-1995.

16C.02.303 Nonconforming Structure

"Nonconforming structure" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means a structure which was legally constructed prior to October 1, 1995, the effective date of Title 16A, but which would not be permitted as a new structure under the terms of this title because the structure is not in conformance with the applicable elevation and/or flood-proofing requirements.

16C.02.304 Nonconforming Use

"Nonconforming use" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the use of a building, structure or land which was lawfully established, existing and maintained at the effective date of provisions of this title but which, because of the application of this title to it, no longer conforms to the use or applicable elevation and/or flood-proofing requirements of this title and which would not be permitted as a new use under the terms of this title.

16C.02.305 Ordinary High Water Mark (OHWM)

"Ordinary high water mark (OHWM)" means that mark on lakes and streams which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

16C.02.310 Perennial Stream

"Perennial stream" means a stream that flows year round in normal water years. Groundwater is a source of much of the water in the channel.

16C.02.320 Project Site

"Project site" means that portion of any lot, parcel, tract, or combination thereof which encompasses all phases of the total project proposal.

16C.02.321 Qualified Professional

"A qualified professional" shall meet the following criteria:

(1) A qualified professional for wetlands must have a bachelor's degree or higher in biology, ecology, soil science, botany, or a closely related field, and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.

(2) A qualified professional for stream corridors must have a bachelor's degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years' professional experience related to the subject species/habitat type.

(3) A qualified professional for geologically hazardous areas and preparation of geo-technical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.

(4) A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.

(5) A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.

(6) A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.

(7) A qualified professional for economic studies must have a bachelor's degree or higher in economics or business administration with 5 years of professional experience. The five-year standard shall be waived for professionals with a PhD degree.

(8) A qualified professional for habitat assessments and habitat management plans must have a bachelor's degree or higher in biology and professional experience related to the subject species or habitat.

(9) Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined to be acceptable to the Administrative Official.

16C.02.322 Recreation Vehicle

"Recreation vehicle" means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

16C.02.325 Restore

"Restore" means to re-establish the basic functional properties listed in Section 16C.06.05 that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions [nor to limit flood authorities ability to make improvements necessary to alleviate flood risk, which may not allow for certain restoration activities or methods.](#)

16C.02.330 Revetment

"Revetment" means a facing placed on a bank or bluff to protect a slope, embankment, or shore structure against erosion by wave action or currents.

16C.02.335 Riparian ~~vegetation~~ Areas

"Riparian areas are transitional between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence)."~~"Riparian Vegetation" means the terrestrial vegetation that grows beside rivers, streams, and other freshwater bodies and that depends on these water sources for soil moisture greater than would otherwise be available from local precipitation.~~

16C.02.340 Riprap

"Riprap" means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour, or sloughing of a structure or embankment; also the stone used for this purpose.

16C.02.345 Scour

"Scour" means the removal of underwater material by waves and currents, especially at the base or toe of a shore stabilization structure.

16C.02.355 Shoreline

"Shoreline," as used in the title, means those water areas, the associated features, and the land areas within Yakima County that are subject to the State Shoreline Management Act, especially as defined in RCW 90.58.030 (definitions), and as further identified in Section 16D.10.03 (Shoreline Jurisdiction) of the Shoreline Master Program (YCC Title 16D).

16C.02.360 Shore Stabilization

"Shore stabilization" means the construction or modification of bulkheads, retaining walls, dikes, levies, riprap, breakwaters, jetties, groins, weirs, and other structures along the shore, for the purpose of controlling stream undercutting, stream erosion or lake shore erosion.

16C.02.362 Shrub-steppe

"Shrub-steppe": ~~A~~ means a non-forested vegetation type consisting of one or more layers of perennial bunchgrasses and a conspicuous but discontinuous layer of shrubs (see Eastside Steppe for sites with little or no shrub cover). In areas with greater precipitation or on soils with higher moisture-holding capacity, shrub-steppe can also support a dense layer of forbs (i.e., broadleaf herbaceous flora). Shrub-steppe contains various habitat features, including diverse topography, riparian areas, and canyons. Another important component is habitat quality (i.e., degree to which a tract resembles a site potential natural community), which may be influenced by soil condition and erosion; and the distribution, coverage, and vigor of native shrubs, forbs, and grasses. Sites with less disturbed soils often have a layer of algae, mosses, or lichens. [BG14]

16C.02.365 Slope

"Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

16C.02.366 Solid Waste

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, wood waste, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. Solid waste shall not include earth, clay, sand or gravel.

16C.02.367 Special Flood Hazard Areas

"Special flood hazard area" means the land in the floodplain identified by the Federal Emergency Management Agency that is subject to a one-percent or greater chance of flooding in any given year; commonly known as the 100-year floodplain.

16C.02.368 Start of Construction

"Start of construction" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. "Permanent construction" does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage, or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

16C.02.370 Stream

"Stream" means water contained within a channel, either perennial, intermittent or ephemeral. Streams include natural watercourses modified by man, for example, by stream flow manipulation, channelization, and relocation of the channel. They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses.

16C.02.380 Stream Corridor

"Stream corridor," as used in this title, means those features listed and described in Section 16C.06.03 and related appendices to this title.

16C.02.390 Structure

"Structure" means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height. The term also includes gas or liquid storage tanks when located principally above ground.

16C.02.395 Substantial Improvement

"Substantial improvement" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) Before the damage occurred to a structure that has been damaged and is being restored.

For the purposes of this definition "substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The total value of all improvements to an individual structure undertaken subsequent to October 1, 1995, the effective date of Title 16A, shall be used to define "substantial improvement" for said structure. The term does not, however, include either:

- (1) Any project for improvement to a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register or Historic Places or a state inventory of historic places.

16C.02.400 Use

"Use" means the activity to which land or a building is devoted and for which either land or a building is or may be occupied or maintained.

16C.02.415 Vegetative Buffer or Buffer

"Vegetative buffer or Buffer" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of a stream corridor, wetland and other hydrologically related critical areas as set forth in Chapter 16C.06.05 (Functional Properties) and 16C.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not always exist due to degradation of the vegetative buffer before establishment of this title, or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

16C.02.425 Wetland

"Wetland" or "wetlands" means ~~that~~ areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances ~~does~~ support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater

treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. ~~However, w~~Wetlands may include those artificial wetlands ~~specifically~~ intentionally created from non-wetland areas to mitigate conversion of wetlands.

16C.02.430 Wildlife

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

16C.02.435 Wildlife Habitat

"Wildlife habitat" means areas which, because of climate, soils, vegetation, relationship to water, location and other physical properties, have been identified as of critical importance to maintenance of wildlife species.

16C.02.440 Works

"Works" means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved road, abutments, projection, excavation, channel rectification, or improvement attached to, or affixed upon, the realty.

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899 **APPLICATION AND REVIEW PROCEDURES**

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General Provisions

16C.03.01 Critical Area Development Authorization Required

- (1) No new development, construction or use shall occur within a designated critical area without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in Section 16C.03.05 (Minor Activities Allowed Without a Permit).
- (2) With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within a designated critical area shall be processed according to the provisions of this chapter and the Project Permit Administration Ordinance (YCC Title 16B).
- (3) Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by Yakima County. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.
- (4) Permits issued in accordance with this title shall run with the land and conveyed to the applicant, their grantees, and assignees.
- (5) Coordination with Other Jurisdictions.
 - (a) Where all or a portion of a standard development project site is within a designated critical area and the project is subject to another local, state or federal development permit or authorization, then the Administrative Official shall determine whether the provisions of this title can be processed in conjunction with, and as part of, that local, state or federal development permit or authorization, or whether a separate critical area development authorization application and review process is necessary. The decision of the Administrative Official shall be based upon the following criteria:
 - i) The nature and scope of the project and the critical area features involved or potentially impacted;
 - ii) The purpose or objective of the permit or authorization and its relationship to protection of the critical area;
 - iii) The feasibility of coordinating the critical area development authorization with the permitting agency;
 - iv) The timing of the permit or authorization.
 - (b) When a determination has been made that provisions of this title can be handled through another applicable development permit or authorization process, project proponents will be required to provide any additional site plans, data and other information necessary as part of that process to fully evaluate the critical area project and ensure its compliance with this title. The Administrative Official's decision on the critical area development authorization shall be coordinated to coincide with other permits and authorizations.

Inquiry and Early Assistance

16C.03.02 Critical Area Identification Form and Critical Area Report Requirements.

- (1) Prior to the review or consideration of any proposed development, construction or use, except those provided under Applicability (16C.01.05), and Minor Activities Allowed Without a Permit (16C.03.05), the County shall consider available information to determine if a critical area is likely to be present. The presence of a critical area found on the paper and electronic

maps within or adjacent to the property proposed for development is sufficient foundation for the Administrative Official to require preparation of a critical area identification form, provided by the department, and a preliminary site plan. This critical area identification form and preliminary site plan may be one piece of information used to analyze how a critical area could be affected by a development proposal. To the extent possible, all critical area features must be identified on the critical area identification form and shown on the preliminary site plan prior to the Administrative Official determining whether the development is subject to this title.

- (2) Upon receipt of a critical area identification form and site plan, the Administrative Official will typically conduct a site examination to review critical area conditions on site. The Administrative Official shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner for the site examination during any proposal review, restoration, emergency action, or monitoring period.
- (3) The Administrative Official shall review available information pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal. If so, a more detailed critical area report shall be submitted in conformance with Section 16C.03.17 (Critical Areas Reports) and Section 16C.03.18 (Supplemental Report Requirements for Specific Critical Areas), except as provided below:

(a) **No critical areas present.** If the Administrative Official is able to sufficiently determine that a critical area does not exist within or adjacent to the project area, then a critical area report is not required;

(b) **Critical areas present, but no impact.** If the Administrative Official is able to determine the existence, location and type of critical area sufficiently to indicate that the project area is not within or adjacent to the critical area and that the proposed activity is unlikely to degrade the functions or values of the critical area, then the Administrative Official may waive the requirement for a critical area report. A summary of the determination shall be included in any staff report or decision on the permit or review;

(c) **Critical areas may be affected by proposal.** If the project area is within or adjacent to a critical area or buffer the Administrative Official may waive the requirement for a critical areas report if:

i) The Administrative Official is sufficiently able to determine the existence, location and type of the critical area;

ii) ~~The project is of a small scale~~disturbs less than an acre, excluding access and utilities,
or is uncomplicated in nature, such that a specialist is not needed to identify impacts and mitigation. Work within a wetland, ~~or~~ stream channel, or a vegetative buffer would generally not meet this provision; [BG15]

iii) The applicant agrees to provide mitigation that the Administrative Official deems adequate, with consultation from resource agencies, [BG16] to mitigate for anticipated impacts. Restoration of degraded areas may serve as mitigation; and,

iv) A summary of the determination shall be included in any staff report or decision on the permit or review.

(d) If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

- (e) As guidance on the practical application of the requirement for critical areas reports, reports will generally fall into the following groups based on increasing complexity and cost of the report:
- i) Determining the absence of a critical area (sometimes resulting when initial indicators show the likely presence of a critical area);
 - ii) Determining the existence, location and type of a critical area;
 - iii) Determining impacts of an encroachment on a critical area and general mitigation measures;
 - iv) Developing a compensatory mitigation plan for replacement or mitigation of lost wetland or stream channel area.

16C.03.03 Pre-application Conference

Any new development, construction or use falling under the provisions of this title shall be subject to a pre-application conference, except that project review for flood hazards shall follow the pre-application requirements established to administer Chapters 16C.05.20 through 16C.05.72 (Flood Hazard Areas). The department shall schedule a pre-application conference for as soon as is reasonably possible to allow attendance by the project proponent and necessary staff. To assist in project review and discussion, prior to the pre-application conference, the project proponent must submit a preliminary site plan showing the nature and scope of the proposed project along with any existing features of the property having a relationship to the project. The pre-application conference is intended to allow the Administrative Official to:

- (1) Establish the scope of the project and the critical area features involved or potentially impacted;
- (2) Consider the degree to which the project may affect or impair a designated critical area and identify potential concerns that may arise;
- (3) Identify other permits and authorizations which the project proponent may need to obtain;
- (4) Determine whether the project will be processed through the development authorization procedures of this title or coordinated through the review and approval procedures of another development permit or authorization required of the project from Yakima County;
- (5) Provide the proponent with resources and technical assistance (such as maps, scientific information, other source materials, etc.) to assist the proponent in meeting the provisions of this title and any applicable rules and regulations of other agencies and jurisdictions;
- (6) Determine whether there is a need for a preliminary site assessment or a technical assistance conference to better define the critical area issues and alternatives;
- (7) Determine whether the project requires a permit, and what type of permits or reviews may be needed. Final determination of necessary permits will be made based on the project design and submittal materials;
- (8) Consider whether a preliminary site assessment should be scheduled in the field to determine the applicability of the development standards of this title to the project, based on information contained in the preliminary site plan.

16C.03.04 Technical Assistance Conference

If requested by the project proponent or otherwise determined necessary, the department will arrange a meeting of representatives of those agencies and organizations with expertise, interest, or jurisdiction in the project. In conjunction with the invitation to attend the technical assistance conference, the department will provide the potential participants with a project summary compiled from the pre-application conference. The technical assistance conference may also

involve a preliminary site assessment, if it is determined that resolution of issues related to the project can be achieved through an on-site review. The purpose of the technical assistance conference will be to:

- (1) Confirm and define the requirements of any other applicable local, state or federal regulations;
- (2) Clarify any identified procedural or regulatory conflicts and define the alternative courses of action available to the applicant in addressing project requirements;
- (3) Determine whether compliance with other existing statutes and regulations will adequately address the provisions of this title;
- (4) Provide the proponent with guidance, available data and information that will assist in complying with the provisions of this title and other ordinances and regulations;
- (5) Provide the proponent with guidance concerning project modifications or site enhancements that would eliminate or minimize impacts to the critical area;
- (6) Provide the proponent with alternatives for securing data, information, or assistance necessary to the project but not available through the pre-application conference;
- (7) Determine whether a critical area report is necessary, and if so, the qualifications, skills and expertise required of a consultant to perform the special study.

Abbreviated Review Alternatives

16C.03.05 Minor Activities Allowed without a Permit.

- (1) The following activities are included under 16C.01.05(1) (Applicability) and are allowed without a permit:
 - (a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffer. Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls, are not covered in this provision and are subject to review;
 - (b) Minor maintenance and/or repair of lawfully established structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing replacement, re-roofing, etc. Cleaning-Maintaining canals, ditches, drains, wasteways, etc. without expanding their original configuration is not considered additional earthwork. Repair of levees operated by the Yakima County Flood Control Zone District, as long as the original dimensions and location are maintained, is not considered additional earthwork. as long as the eAll cleared materials are shall be placed outside the stream corridor, wetlands, and buffers;
 - (c) Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education or scientific research;
 - (d) Creation of unimproved private trails that do not cross streams or wetlands that are less than two (2) feet wide and do not involve placement of fill or grubbing of vegetation;
 - (e) Planting of native vegetation;
 - (f) Noxious weed control outside vegetative buffers identified in Chapter 16C.06.16, except for area wide vegetation removal/grubbing;

- (g) Noxious weed control within vegetative buffers, if the criteria listed below are met. Control methods not meeting these criteria may still apply for a development authorization as applicable:
- i) Hand removal/spraying of individual plants only;
 - ii) No area wide vegetation removal/grubbing.
- ~~(h) (h)~~ — Agricultural and other accessory uses or structures that maintain the existing natural vegetation (rangeland, grazing, stock fences, outdoor recreation, etc.).
- (i) The restoration of critical areas for habitat restoration projects that do not include excavation or fill.

16C.03.10 Mitigation requirements

- (1) All developments shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:
- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
 - (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 - (c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
 - (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
 - (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
 - (f) Monitoring the impact and taking appropriate corrective measures.
- (2) Mitigation for individual actions may include a combination of the above measures.
- (3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved Mitigation Plan. Mitigation shall not be implemented until after approval of the Mitigation Plan.
- (4) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. When necessary, mitigation may be provided that is out-of-kind and/or off-site.

Review Process

16C.03.11 Application Submittal

- (1) Application for a development authorization under this title shall be made on forms provided by the Department. The application submittal shall include a site plan drawn to scale showing:
- (a) the actual shape and dimensions of the property site to be used;
 - (b) existing and proposed structures;
 - (c) excavation, fill, drainage facilities, topography, slope, and;
 - (d) such other information as is needed to determine the nature and scope of the proposed development, including the maximum extent of the project site with respect to construction, excavation, equipment and material storage, and other project related work.

- (2) The site plan should also show the location of all critical areas, such as those identified in Sections 16C.03.02 (Critical Areas Identification Form and Critical Areas Reports) and 16C.03.17 (Critical Areas Report Requirements), include all required critical areas reports prepared in conformance with 16C.03.17, and include the permit information required either in YCC Title 16B (Project Permit Administration) or in Chapter 16C.05.44 (Flood Hazard Protection Administration), as appropriate.
- (3) To be accepted as complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this title or requested on the basis of the pre-application conference (16C.03.03), or technical assistance conference (16C.03.04).

16C.03.12 Determination of Review Process

- (1) The Administrative Official shall determine from the application submittal, and other available information what type of permit or review is required under this title. The Administrative Official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing of any application needs. Available information used in this determination may include:
- (a) critical areas identification form;
 - (b) pre-application conference information;
 - (c) technical assistance conference information.
- (2) Specific information on when a permit or review is required, its review process type and review criteria are found in the section for each permit or review. However, a brief description of each type of permit or review is provided in Table 3-1 below. Some permits or reviews are general and all projects will have a general review. Some permits are more specialized and apply only in specific cases or situations. More than one permit or review may be needed for a project.

Table 3-1

General Permits or Reviews
Standard Development. Standard development projects include any development not subject to RCW Chapter 90.58, the Shoreline Management Act.
Specific Permits
Adjustment. Administrative Adjustments are used outside Shoreline jurisdiction when a project needs to reduce or adjust a development standard.
Non-conforming Use or Facility Alteration. Non-conforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.
Minor revisions to an Existing Permit. Minor Revisions to an Existing Permit allow simplified review of certain changes to a project that has previously received a permit.
Reasonable Use Exceptions. Reasonable Use Exceptions provide an alternative to landowners when all reasonable use of a property has been prohibited.
Flood Hazard Permit. A Flood Hazard Permit is required for activities within floodplains. It is different in that it has special administrative provisions, and may include many of the specific permit types noted above within it, which are described in Chapters 16C.05.20 through 16C.05.72. It is focused mainly on construction methods, but may include site design to minimize impacts to adjacent properties or resources, or to locate the proposed development in areas where depth and velocity of floodwaters during the base flood do not exceed the current standards for construction of human occupied structures or safe access.

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1187 **16C.03.13 Development Authorization – Review Procedure**

1188 Upon submittal and acceptance of a completed development authorization application, the
1189 Administrative Official shall process and review the application as follows, except that permits or
1190 reviews required for critical areas under Chapters 16C.05.20 through 16C.05.72 (Flood Hazard)
1191 shall be processed using the permit development standards, approval criteria and other provisions
1192 established in Chapters 16C.05.20 through 16C.05.72.

- 1193 (1) Development authorizations shall be processed consistent with review procedures provided in
1194 YCC Title 16B (Project Permit Administration), and with any specific processes requirements
1195 provided in 16C.03.20 through 16C.03.26 (specific permit descriptions), including but not
1196 limited to:
1197 (a) submittals;
1198 (b) completeness review;
1199 (c) notices;
1200 (d) hearings;
1201 (e) decisions; and,
1202 (f) appeals.
- 1203 (2) Development authorizations shall be reviewed for conformance with the applicable
1204 development standards provided in 16C.03.27 (General Critical Areas Protection Measures),
1205 and in Chapters 16C.06 through 16C.09, except that:
1206 (a) For rangeland livestock grazing operations, the Administrative Official may waive
1207 compliance with development standards in Chapters 16C.06 (Fish and Wildlife Habitat and
1208 the Stream Corridor), 16C.07 (Wetlands), 16C.08 (Geologically Hazardous Areas), and
1209 16C.09 (CARA), except for those uses and activities listed in Section 16C.06.10
1210 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be
1211 provided that has been prepared using all applicable US Department of Agriculture -
1212 National Resource Conservation Service best management practices designed to protect
1213 streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing
1214 operations. An acceptable Resource Management Plan is deemed to consist of acceptable
1215 critical areas protection measures capable of dealing with impacts of grazing activities
1216 dispersed across large areas. This provision is not intended to apply to pasture grazing,
1217 hobby farms, or confinement feeding operations.
- 1218 (3) Decisions on a development authorization shall be consistent with Section 16C.03.14
1219 (Authorization Decisions – Basis for Action), 16C.03.15 (Conditional Approval of
1220 Development Authorization) and with any specific decision criteria provided under the
1221 sections for each relevant permit type, as provided in 16C.03.20 through 16C.03.26 (specific
1222 permit descriptions).

1223
1224 **16C.03.14 Authorization Decisions – Basis for Action**

1225 The action on any development authorization under this title shall be based upon the following
1226 criteria:

- 1227 (1) Impact of the project to critical area features on the property or on abutting or adjacent
1228 properties;
1229 (2) Danger to life and property that would likely occur as a result of the project;

- (3) Compatibility of the project with the critical area features on, adjacent to, or near the property;
- (4) Conformance with the applicable development standards in this title;
- (5) Requirements of other applicable local, state or federal permits or authorizations, including compliance with flood hazard mitigation requirements of Chapters 16C.05.20 through 16C.05.72;
- (6) Adequacy of the information provided by the applicant or available to the department;
- (7) Ability of the project to satisfy the purpose and intent of this title;
- (8) Based upon the project evaluation, the decision maker shall take one of the following actions:
- (a) Grant the development authorization;
 - (b) Grant the development authorization with conditions, as provided in 16C.03.15 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or adjacent to the project site;
 - (c) Deny the development authorization.
- (9) The decision by the Administrative Official on the development authorization shall include written findings and conclusions stating the reasons upon which the decision is based.

16C.03.15 Conditional Approval of Development Authorization

In granting any development authorization, the decision maker may impose conditions to:

- (1) Accomplish the purpose and intent of this title;
- (2) Eliminate or mitigate any identified specific or general negative impacts of the project on the critical area;
- (3) Restore important resource features that have been degraded or lost because of past or present activities on the project site;
- (4) Protect designated critical areas from damaging and incompatible development;
- (5) Ensure compliance with specific development standards in this title.

16C.03.16 Fees and Charges

The board of county commissioners establishes the schedule of fees and charges listed in Yakima County Code, Title 20 (Yakima County Fee Schedule), for development authorizations, ~~variances~~adjustments, appeals and other matters pertaining to this title.

Critical Areas Reports

16C.03.17 Critical Areas Report Requirements

- (1) The Administrative Official may require a critical areas report, paid for by the applicant in accordance with YCC Title 16B.04, where determined necessary through the critical area identification form, technical assistance conference, site investigation, or other portion of the project review.
- (2) A qualified professional, as defined by this title, shall prepare the report utilizing best available science. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.
- (3) The critical area report shall:
 - (a) Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this title;

- (b) Describe all relevant aspects of the development proposal; all critical areas adversely affected by the proposal including any geologic or flood hazards; all risks to critical areas, the site, and other public and private properties and facilities resulting from the proposal; and assess impacts on the critical area from activities and uses proposed; and
- (c) Identify proposed mitigation and protective measures as required by this title.
- (4) The critical areas report shall include information to address the Supplemental Report Requirements for Specific Critical Areas (16C.03.18).
- (5) The Administrative Official shall review the critical areas report for completeness and accuracy, and shall consider the recommendations and conclusions of the critical areas report to assist in making decisions on development authorizations and to resolve issues concerning critical areas jurisdiction, appropriate mitigation, and protective measures.
- (6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be demonstrated to the satisfaction of the Administrative Official that the previously prepared report is adequate for current analysis. Future land use applications may require preparation of new, amended, or supplemental critical area assessment reports. Reports prepared for nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if relevant to the current analysis and meeting the above standards. The Administrative Official may also require the preparation of a new critical area assessment report or a supplemental report when new information is found demonstrating that the initial assessment is in error. If the Administrative Official requires more information in the report, he/she shall make the request in writing to the applicant stating what additional information is needed and why.
- (7) The Administrative Official may reject or request revision of the critical areas report when the Administrative Official can demonstrate that the assessment is incomplete, or does not fully address the critical areas impacts involved.
- (8) To avoid duplication, the reporting requirements of this chapter shall be coordinated if more than one critical area report is required for a site or development proposal.
- (9) Applicants should provide reports and maps to the County in an electronic format that allows site data to be incorporated into the County critical areas database, provided that the County may waive this requirement for single-family developments. Applicants are encouraged to coordinate with the Administrative Official regarding electronic submittal guidelines. This requirement shall not be construed as a requirement to use specific computer software.
- (10) At a minimum, a critical areas report shall include the following information:
- (a) A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and buffers within and abutting the site, including but not limited to effects related to clearing, grading, noise, light/glare, modification of surface or subsurface flow, drilling, damming, draining, creating impervious surface, managing stormwater, releasing hazardous materials, and other alterations. Projects in frequently flooded areas must comply with the requirements of Section 16C.05.20 through 16C.05.72. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the report shall identify the type of hazard and assess the associated risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
- (b) A written description of the critical areas and buffers on or abutting the site, including their size, type, classification or rating, condition, disturbance history, and functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high

- floodwater depth or velocity the description shall identify the type and characteristics of the hazard;
- (c) An analysis of potential adverse critical area impacts associated with the proposed activity. For geologically hazard areas, also assess the risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
 - (d) An explanation of how critical area impacts or risks will be avoided and/or minimized, how proposed mitigation measures will prevent or minimize hazards, why the proposed activity requires a location on or access across a critical area, the on-site design alternatives, and why alternatives are not feasible;
 - (e) When impacts cannot be avoided, the report shall include a plan describing mitigation to replace critical area functions and values altered as a result of the proposal, or to reduce flood or geologic hazards to critical areas, the site, and other public and private properties. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the plan shall address mitigation for impacts to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
 - (f) The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
 - (g) Additional reasonable information requested by the Administrative Official for the assessment of critical areas impacts or otherwise required by the subsequent articles of this title.
- (11) A critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Administrative Official.
- (12) The Administrative Official may limit the required geographic area of the critical area report as appropriate.
- (13) **Compensatory Mitigation Plans** - When compensatory mitigation, as described in Section 16C.03.10 (Mitigation Requirements) is required or proposed for wetland areas, ~~or~~ stream channels, or upland habitat areas, [BG18]the applicant shall submit for approval by Yakima County a mitigation plan as part of the critical area report, which includes:
- (a) **Environmental Goals and Objectives.** The mitigation plan shall include a written report identifying environmental goals and objectives of the proposed compensation including:
 - i) A description of the anticipated impacts to the critical areas, mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals and objectives, identification of desired resource functions, dates for beginning and completion of site compensation construction activities, and an analysis of the likelihood of success of the compensation project. The goals and objectives shall be related to the functions and values of the impacted critical area.
 - (b) A review of the best available science supporting the proposed mitigation;
 - (c) A description of the report author's experience to date in restoring or creating the type of critical area proposed;
 - (d) **Performance Standards.** The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained;

- (e) Detailed Construction Documents. The mitigation documents shall include written specifications and plans describing the mitigation proposed, such as:
- i) The proposed construction sequence, timing, and duration;
 - ii) Grading and excavation details;
 - iii) Erosion and sediment control features;
 - iv) A planting plan specifying plant species, quantities, locations, size, spacing, and density;
 - v) Measures to protect and maintain plants until established, and;
 - vi) Documents should include scale drawings showing necessary information to convey both existing and proposed topographic data, slope, elevations, plants and project limits.
- (f) Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.
- (g) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
- (h) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with Section 16C.03.27(1) (Financial Guarantees).
- (14) Innovative Mitigation.
- (a) Yakima County encourages innovative mitigation projects that are based on the best available science. The mitigation plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:
- i) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
 - ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
 - iii) The group demonstrates that long-term management of the habitat area will be provided;
 - iv) There is a clear potential for success of the proposed mitigation at the identified mitigation site;
 - v) There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;

- vi) The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel-by parcel regulations and/or traditional mitigation approaches;
- vii) The plan is consistent with the general purpose and intent of this chapter;
- viii) The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and
- ix) The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
- (b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required wetland replacement ratios.
- (c) Projects that propose compensatory wetland mitigation shall also use the standards in Section 16C.07.05 (Compensatory Mitigation Requirements). For those situations where a mitigation bank may provide an opportunity for mitigation, then the requirements in Section 16C.07.06 (Wetland Mitigation Banks) shall apply.

16C.03.18 Supplemental Report Requirements for Specific Critical Areas

- (1) **Stream Corridors.** When a critical areas report is required for a stream corridor or hydrologically related critical area, it shall include the following:
- (a) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance the functional properties listed in Section 16C.06.05 (Functional Properties);
- (b) Where there is evidence that proposed construction lies within an immediate zone of potential channel migration, representing a future hazard to the construction, a hydrologic analysis report may be required. The report shall assume the conditions of the one-hundred-year flood, include on-site investigative findings, and consider historical meander characteristics in addition to other pertinent facts and data.
- (2) **Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat Conservation Areas, it shall include the following:
- (a) **Habitat Assessment:** A habitat assessment is an investigation of the project area to evaluate the presence or absence of such species, and ~~areas~~ habitat types [BG19] with which such species have a primary association. The presence or absence assessment shall incorporate the time sensitive nature of species use. The landowner may submit an assessment prepared by the state or federal agency with jurisdiction over the species. This assessment is time sensitive and the assessment must be completed no more than 36 months prior to the date the critical areas application is deemed complete.
- (b) If the habitat assessment determines that such habitat area is present on site, a management plan is required that follows published federal, or state, management recommendations. The Administrative Official shall confer with the appropriate agency and consider their comments through the review process.
- (3) **Wetlands** When a critical areas report is required for Wetlands, it shall include the following:
- (a) The exact location of a wetland's boundary and wetland rating shall be determined through the performance of a field investigation by a qualified wetland professional applying the ~~Washington State Wetlands Identification and Delineation Manual (Ecology Publication #96-94)~~ 1987 Corps of Engineers Wetlands Delineation Manual —

(<http://www.ecy.wa.gov/programs/sea/wetlands/pdf/corps87manual.pdf>~~http://www.ecy.wa.gov/pubs/9694.pdf~~) as required by RCW 36.70A.175 (Wetlands to be delineated in accordance with manual), *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)* (http://www.ecy.wa.gov/programs/sea/wetlands/pdf/AridWest_Sept2008.pdf), and *Western Mountains, Valleys, and Coast Region (Version 2.0)* (http://www.ecy.wa.gov/programs/sea/wetlands/pdf/WestMt_May2010.pdf), and the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication # ~~0414-06-15~~030 - <https://fortress.wa.gov/ecy/publications/SummaryPages/1406030.html>), as amended;

- (b) All delineated wetlands and required buffers within two hundred (200) feet of the project area shall be depicted on the site plan. For areas off-site of the project site, wetland conditions within 200 feet of the project boundaries may be estimated using the best available information. Best available information should include, but not be limited to aerial photos, land based photos, soils maps, or topographic maps;
- (c) A critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information:
 - i) A statement specifying all assumptions made and relied upon;
 - ii) Documentation of any fieldwork performed on the site, including field data sheets for delineations, the wetland rating form, baseline hydrologic data, etc.;
 - iii) A description of the methodologies used to conduct the wetland delineations, or impact analyses including references;
 - iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;
- (d) For projects that will affect the wetland or its buffer, provide the following:
 - i) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions and values listed in Section 16C.07.04(1) (Wetland Functions and Rating), and Section 16C.06.05 (Functional Properties);
 - ii) Mitigation sequencing pursuant to Section 16C.03.10 (Mitigation Requirements) to avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of wetland functions and values. Mitigation ratios may be necessary and should follow the guidance provided in Section 16C.07.05 (Compensatory Mitigation) of the wetland chapter.

- (4) **Geologically Hazardous Areas** When a critical areas report is required for a Geologically Hazardous Area, it shall include the following, provided that the Administrative Official may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

- (a) A description of the site features, including surface and subsurface geology. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;
- (b) A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any Suspected and Risk Unknown hazards identified in the affirmative determination of hazard (16C.08.04);
- (c) A description of the vulnerability of the site to seismic and other geologic processes and hazards;

- (d) A description of any potential hazards that could be created or exacerbated as a result of site development;
- (e) For developments in or affecting landslide hazard areas the report shall also include:
- i) Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the YCC Title 13 (Building Code);
 - ii) An analysis of slope recession rate shall be presented in those cases where stability is impacted or influenced by stream meandering, or other forces acting on the toe of the slope;
 - iii) Description of the run-out hazard of landslide debris to the proposed development that starts up-slope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down-slope properties and critical areas.

(5) Flood Hazards

- (a) Prior to authorization of any major construction project within a floodplain which can be anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the base flood, an engineering report shall be prepared that establishes any new flood elevations that would result for the one-hundred-year flood frequency if the project were implemented.

6) Critical Aquifer Recharge Areas

When a hydrogeological report is required for CARAs, it shall include the following:

- a) The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer.
- b) The hydrogeologic report shall be prepared by a hydrogeologist licensed in the state of Washington.
- c) The report shall contain recommendations on appropriate BMPs (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality.

Permit Review Criteria

16C.03.20 Standard Development Permit

- (1) **Classification Criteria** – Standard Development permits include any development not subject to RCW Chapter 90.58 (Shoreline Management Act).
- (2) **Process** Standard Development permits shall be processed as either a Type I or II permit at the judgment of the Administrative Official, in accordance with YCC Title 16B (Project Permit Administration). Applications that are of a significant size or scope shall be processed as a Type II review with public notice. Examples of such projects include those that typically require environmental review (SEPA), filling or excavating a stream channel or wetlands, involve large amounts of fill, require large amounts of parking, etc.
- (3) **Decision Criteria** – Decisions on Standard Development permits shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action).

16C.03.23 Adjustment

- (1) **Classification Criteria** – For projects not required to be processed under RCW Chapter 90.58 (Shoreline Management Act), the Administrative Official is authorized to administratively

adjust the development standards specified herein. Existing structures, parcel size, property boundaries, and other constraints may preclude conformance with building setbacks, vegetative buffers, and other provisions of this chapter. Given such constraints, administrative adjustments may be authorized where the site plan and project design include measures which ensure the protection and performance of the functional properties identified in Section 16C.06.05 (Functional Properties). Adjustments from prohibited use limits are not allowed.

- (2) **Process** – Requests for an Adjustment permit shall be processed as a Type II permit, in accordance with YCC Title 16B (Project Permit Administration). Requests for adjustments of development standards shall be made in writing and shall specify the standard(s) for which an adjustment is sought and the reasons why the adjustment is sought.
- (3) **Decision Criteria** - Decisions on Adjustment permits shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.
- (a) A particular standard may be reduced or modified as long as the Administrative Official determines that the adjustment and/or reduction:
 - i) is consistent with the purpose of this title;
 - ii) is consistent with the intent of the standard; and,
 - iii) will not result in degradation of the critical area.
 - (b) The Administrative Official shall consider the following:
 - i) The proximity and relationship of the project to any critical area and its impact on the critical area;
 - ii) The functions and values that the critical area performs;
 - iii) The overall intensity of the proposed use;
 - iv) The presence of threatened, endangered, or sensitive species;
 - v) The site's susceptibility to severe erosion;
 - vi) The use of a buffer averaging or buffer enhancement plan by the applicant which uses native vegetation or other measures which will enhance the functions and values of the Hydrologically Related Critical Area (HRCA).
 - (c) When granting an adjustment to the provisions of this chapter, the Administrative Official may require alternative measures to be taken to protect the function and value of the HRCA. These alternative measures may include, but are not limited to, the following:
 - i) Restoration of impaired channels and banks to conditions which support natural stream flows, fish habitat, and other values;
 - ii) Restoration, enhancement, and preservation of soil characteristics and the quantity and variety of native vegetation;
 - iii) Provisions for erosion control and for the reduction and filtration of stormwater runoff to moderate the effects of the project on the stream channel and the available area of vegetation separating the project from the stream channel;
 - iv) Removal or alteration of existing manmade facilities associated with stream channels, or drainage ways which improve stream-flow characteristics or improve the movement or exchange of surface waters or floodwaters;
 - v) Replacement of lost wetlands or other stream corridor features on an acre-for-acre and equivalent value or at a higher acre and/or value basis;
 - vi) Conservation easements for key portions of stream corridor property and/or their inclusion within public or private conservation programs which provide for their long-term preservation and maintenance.

- vii) Vegetative Buffer Averaging. Vegetative buffers may be modified by averaging buffer widths. Buffer averaging is preferred in the use of mitigation sequencing (16C.03.10 Mitigation Requirements), over a reduction in the buffer standards.
- (d) The following criteria must be met to reduce the vegetative buffers found in tables 6-1 and 6-2.
- i) There is a hardship related to maintenance of the buffer width that results from parcel boundaries or existing on-site development.
 - ii) The buffer width shall be the maximum possible while meeting the minimum needs of the proposal.
 - iii) The development will not result in a reduction of habitat functions and values.
 - iv) The buffer reduction will not adversely affect salmonid habitat.

16C.03.24 Reasonable Use Exception

- (1) **Classification Criteria** - If the application of this title would deny all reasonable economic use of the subject property, the property owner may apply for a Reasonable Use Exception pursuant to this section.
- (2) **Process** - A Reasonable Use Exception shall be processed as a Type III review with a public hearing in accordance with YCC Title 16B.03 (Classification by Project Permit Type).
- (3) **Decision Criteria** - Decisions on the Reasonable Use request shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action), together with the criteria below. The Reasonable Use request shall be accompanied by the evidence necessary to demonstrate conformance with the criteria below. Failure to satisfy any one of the criteria shall result in denial of the request. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.
- (a) The application of this title would deny all reasonable use of the property; provided that the inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant;
 - (b) No other reasonable use of the property has less impact on the critical area;
 - (c) Any alteration is the minimum necessary to allow for reasonable use of the property.

16C.03.25 Minor Revisions to Approved Uses or Developments

- (1) **Classification Criteria** – Minor revisions to a project that has been approved under a permit are allowed in certain circumstances.
- (a) Changes that are not substantive are not required to obtain a revision and may be allowed as activities to implement the original permit. Examples of such include minor changes in facility orientation or location, minor changes in structural design that does not change the height or increase ground floor area, and minor accessory structures (such as equipment covers or small sheds near the main structure, etc.).
 - (b) Substantive changes are those that materially alter the project in a manner that relates to its conformance with the permit requirements. Such changes may be approved as a minor revision, if the Administrative Official determines that the proposed revision and all previous revisions are within the scope and intent of the original permit, and meet the criteria listed below. Changes not able to meet the criteria must obtain a new permit.

- 1641 i) No additional over water construction will be involved, except that pier, dock, or float
1642 construction may be increased by five hundred square feet or ten percent from the
1643 provisions of the original permit, whichever is less;
- 1644 ii) Lot coverage and height may be increased a maximum of ten percent from the
1645 provisions of the original permit: PROVIDED, that revisions involving new structures
1646 not shown on the original site plan shall require a new permit, and: PROVIDED
1647 FURTHER, that any revisions authorized under this subsection shall not exceed height,
1648 lot coverage, setback or any other requirements of these regulations;
- 1649 iii) Landscaping may be added to a project without necessitating an application for a new
1650 permit: PROVIDED, that the landscaping is consistent with conditions (if any) attached
1651 to the original permit and is consistent with this title for the area in which the project is
1652 located;
- 1653 iv) The use authorized pursuant to the original permit is not changed;
- 1654 v) No additional significant adverse environmental impact will be caused by the project
1655 revision.
- 1656 (2) **Process** – Minor revisions to existing permits shall be processed as a Type I review, as
1657 provided under YCC Title 16B (Project Permit Administration). Parties of record to the
1658 original permit shall be notified of the revision, though a comment period is not required.
- 1659 (3) **Decision Criteria** - Decisions on permit revisions shall be based on the general decision
1660 criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action).

1661 1662 **16C.03.26 Non-Conforming Uses and Facilities**

1663 Non-Conforming Uses and Facilities are classified as either conforming uses with non-conforming
1664 structures or areas, or as non-conforming uses, as described in subsection 1 below. Both types
1665 have different review processes and decision criteria, as provided below in subsections 2 and 3.

- 1666 (1) **Classification Criteria** – There may be situations that do not conform to the standards or
1667 regulations of this title. These situations are characterized as:

1668 (a) **Non-conforming Uses.** Uses of a structure or land that were lawfully established at the
1669 time of their initiation but are currently prohibited by this title are non-conforming uses,
1670 and may utilize structures or land areas that are also non-conforming. A non-conforming
1671 use that is discontinued for any reason for more than one year shall have a presumption of
1672 intent to abandon, shall not be re-established, and shall lose its non-conforming status,
1673 unless an Adjustment (16C.03.23) is obtained to extend the length of time, based on
1674 documentation showing that an intent to abandon did not exist during the period of
1675 discontinuance. An Adjustment request may be submitted after the deadline has passed.
1676 In the case of destruction or damage where reconstruction costs exceed 50% of the assessed
1677 value, the structure shall not be rebuilt;

1678 (b) **Conforming Uses with Non-Conforming Structures or Areas** are structures or areas for
1679 conforming uses that were lawfully established at the time of their initiation, but currently
1680 do not conform to the bulk, dimensional or other development standards of this title.
1681 Structures or areas in locations approved under a permit shall not be considered non-
1682 conforming. Non-conforming outdoor areas that have not been used or maintained for 5
1683 consecutive years shall lose their non-conforming status and may not be reestablished;

1684 (c) Any non-conforming structure, area, or use may be maintained with ordinary care
1685 according to the provisions in 16C.01.05 (Applicability) and 16C.03.05 (Minor Activities

Allowed without a Permit), and do not require additional review under these non-conforming provisions.

(2) Process

(a) Alterations to conforming uses with non-conforming structures or areas shall be allowed under the following process requirements with the understanding that other permits or reviews may also be required under this title:

- i) Those that do not increase the existing non-conformity and otherwise conform to all other provisions of this title are allowed without additional review under these non-conforming provisions;
- ii) Those that increase the non-conformity, including establishing additional square footage within a buffer, are allowed without additional review under these non-conforming provisions; however, a Critical Areas Adjustment Permit must be obtained for the increased non-conformity;
- iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value shall be processed as provided in subsections i) and ii) above;
- iv) A nonconforming structure which is moved any distance shall be processed as provided in subsections 1 and 2 above;
- v) Reconstruction or repair of structures destroyed or damaged 75% or more of the assessed value of the structure (not the whole property), including that resulting from neglect of maintenance or repair, shall be processed under these non-conforming provisions as a Type II review under YCC Title 16B (Project Permit Administration).

(b) Alterations to Non-Conforming Uses

- i) Those involving expansion or alteration within an existing structure, but do not include alterations to outdoor areas, or expansions of the building's height or square footage are allowed without additional review under these non-conforming provisions.
- ii) Alterations to non-conforming uses, including their non-conforming structures or areas that do not qualify under paragraph i) above, shall be processed under these non-conforming provisions as a Type II review, as provided under YCC Title 16B (Project Permit Administration).

(3) Decision Criteria

(a) Decisions on projects that require review under the non-conforming provisions, as identified under subsection (1) above shall be based on the general decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.

(b) Applications for conforming uses with non-conforming structures or areas that are subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that the project meets all of the following criteria:

- i) Using the original location will not place the structure or people in danger of a hazard;
- ii) The previous structure and any structural shore modification used to protect the structure did not increase hazards or damage to other properties;
- iii) The previous structure and any shore modification used to protect the structure did not cause significant impacts to the functions and values of the critical area.

(c) Decisions on non-conforming uses:

- i) A non-conforming use may not be altered or expanded in any manner that would bring that use into greater non-conformity.

16C.03.27 General Critical Areas Protective Measures

The standards below apply to all permits and reviews performed under this title.

(1) Financial guarantees to ensure mitigation, maintenance, and monitoring.

- (a) When mitigation required pursuant to a development proposal is not completed prior to the Yakima County's final permit approval, such as final plat approval or final building inspection, the Administrative Official may require the applicant to post a financial guarantee to ensure that the work will be completed. If the development proposal is subject to compensatory mitigation for wetlands and streams, the applicant must post a financial guarantee to ensure mitigation is fully functional. Where financial guarantees are required by other state or federal agencies for specific mitigation features, additional financial guarantees for those features are not required under this provision.
- (b) The financial guarantee shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.
- (c) The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the Administrative Official, with terms and conditions acceptable to the Yakima County attorney.
- (d) The financial guarantee shall remain in effect until the Administrative Official determines, in writing, that the standards bonded for have been met. Financial guarantees for wetland or stream compensatory mitigation shall be held for a minimum of five years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
- (e) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
- (f) Any failure to satisfy critical area requirements established by law or condition, including but not limited to the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan, shall constitute a default, and the Administrative Official may demand payment of any financial guarantees or require other action authorized by the Yakima County code or any other law.
- (g) Any funds recovered pursuant to this section shall be used to complete the required mitigation. Such funds shall not be deposited in the County General Fund, but rather provided with a separate account. The County will use such funds to arrange for completion of the project or mitigation, and follow-up corrective actions.
- (h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

(2) Declarative Covenants

- (a) When a development is authorized by a critical areas permit or review, a declarative covenant shall, unless determined not to be necessary by the Administrative Official, be filed with the Yakima County Auditor to inform future owners of the existence of a critical areas decision that runs with the land and contains limits relating to critical areas on the property. The declarative covenant shall read substantially as follows:

“This declarative covenant is intended to reduce the incidence of unintentional violation of the Critical Areas Ordinance. Please be informed about your property and the laws that apply to it.

This declarative covenant is provided by Yakima County to the current and future owners of the property described as [enter property description] to inform them that, at the time of this notice, [enter Critical Areas present] existed within or adjacent to the property which are protected and regulated by the Yakima County Critical Areas Ordinance (YCC Title 16C). Development has taken place on the property under permit or review number [enter permit file number], which includes requirements that run with the land. Current and future owners should obtain copies of the permit and also inform themselves about the critical areas that exist on the property.

This declarative covenant may be removed or modified if critical areas conditions change, or if the permit is no longer applicable. Contact the Yakima County Public Services for assistance in doing so.”

- (b) The declarative covenant shall not be required for a development proposal by a public agency or public or private utility:
 - i) Within a recorded easement or right-of-way;
 - ii) Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
 - iii) On the site of a permanent public facility.
- (c) The applicant shall submit proof that the declarative covenant has been filed for public record before the Administrative Official approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.
- (3) Subdivision Standards - The following standards apply to all permits or reviews under the Unified Land Development Code (YCC Title 19) that contain critical areas:
 - (a) All subdivisions that contain critical areas shall be eligible for density bonuses or other development incentives, as provided in the Unified Land Development Code (YCC Title 19);
 - (b) Critical areas shall be actively protected through the following:
 - i) Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible;
 - ii) When Geologically Hazardous Areas (excluding Erosion, Over Steepened Slopes of Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Buffers fall within the boundary of a subdivision:
 - (1) Said critical areas shall be protected by placing them entirely within a separate critical area tract, or by including them entirely within one of the developable parcels. Other options, such as conservation easements and building envelopes may be deemed by the Administrative Official as meeting this provision when special circumstances obstruct the viability of this provision;

1821 (2) For those new lots that do contain said critical areas, useable building envelopes
1822 (5,000 square feet or more for residential uses) shall be provided on the plat that lie
1823 outside said critical areas.
1824 iii) New lots partially within the floodplain shall provide a usable building envelope (5,000
1825 square feet or more for residential uses) outside the floodplain;
1826 iv) New lots entirely within the floodplain shall be at least one acre in area;
1827 v) For new lots containing-, streams, wetlands, and/or vegetative buffers, outdoor use
1828 envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the
1829 plat that lie outside said critical areas;
1830 vi) Degraded vegetative buffers shall be restored, or provided with protection measures
1831 that will allow them to recover;
1832 vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and
1833 relevant information about them disclosed on the final plat.
1834

Chapter 16C.04
ENFORCEMENT AND PENALTIES

Sections:

- 16C.04.01 Enforcement Responsibilities Generally
- 16C.04.02 Enforcement Responsibilities – Chapters 16C.05.20 through 16C.05.72,
Flood Hazard Permits
- 16C.04.03 Penalties

16C.04.01 Enforcement Responsibilities Generally

It shall be the duty of the Administrative Official or his designee to enforce the provisions of the Critical Areas Ordinance pertaining to all development within the jurisdiction of this title, except as expressly noted in Section 16C.04.02 below pertaining to flood hazard permits. Whenever any development is found to be in violation of this title or a development authorization issued pursuant to this title, the Administrative Official or his designee may order any work on such development stopped by serving written notice on any person engaged in the wrongdoing or causing such development to be done. The notice shall be in the form of a "~~cease and desist~~ Notice of Violation and/or Stop Work Order" ~~order~~ and shall indicate corrective actions necessary to fulfill authorization conditions and/or terms of this title and the time within which such corrections shall occur, including reclamation requirements outlined in Chapter 16C.06, BG2023. No further development shall be authorized unless and until compliance with the development authorization conditions and/or terms of this title has been achieved to the satisfaction of the Administrative Official.

**16C.04.02 Enforcement Responsibilities – Chapters 16C.05.20 through 16C.05.72,
Flood Hazard Permits**

It shall be the duty of the Chief Building Official or his designee to enforce the provisions of Chapters 16C.05.20 through 16C.05.72. Whenever any development is found to be in violation of said chapters or a permit issued pursuant to said chapters, the Chief Building Official may order any work on such development stopped by serving written notice on any persons engaged in the doing or causing such development or substantial development to be done. Any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

16C.04.03 Penalties

- (1) Violation of the provisions of this title or failure to comply with any of its requirements constitutes a misdemeanor and a public nuisance. Any person who violates or fails to comply with any of its requirements shall, upon conviction in a court of competent jurisdiction, be fined not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.
- (2) It shall be the affirmative duty of the county prosecutor's office to seek relief under this section for violations of this title.
- (3) Nothing herein shall prevent the county prosecutor's office from taking such other lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

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1880 (4) In addition to any criminal proceedings brought to enforce this title and in addition to any fine
1881 or imprisonment provided for therein, continuing violations of this title may be enjoined or
1882 ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement
1883 actions, such violations are declared to be public nuisances. Any person, firm, or corporation
1884 violating the provisions of this title shall be liable for all costs of such proceedings, including
1885 reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in
1886 addition to any other remedies available at law or equity.
1887

PC Recommended Draft

Chapter 16C.05
FLOOD HAZARD AREAS

16C.05.20 FLOOD HAZARD AREAS – GENERAL PROVISIONS

Sections:

16C.05.20.010	Flood Hazard Areas Established
16C.05.20.030	Principles
16C.05.20.050	Applicability
16C.05.20.060	Exemptions
16C.05.20.070	Interpretations
16C.05.20.080	Compliance
16C.05.20.090	Warning and Disclaimer of Liability

16C.05.20.010 Flood Hazard Areas Established

The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA), in a scientific and engineering report entitled "The Flood Insurance Study for Yakima County, Washington and Incorporated Areas" dated November 18, 2009, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be part of Chapters 16C.05.20 through 16C.05.72 and are established as flood hazard areas. The Flood Insurance Study and maps are on file at the Yakima County Courthouse Building, Yakima, Washington. [State defined frequently flooded areas are included within the flood hazard areas.](#) ^[BG21] The best available information for flood hazard area identification as outlined in 16C.05.44.060 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under 16C.05.44.060.

16C.05.20.030 Principles

- (1) Recognizing the right and need of the river channel to periodically carry more than the normal flow of water and desiring to minimize loss of life and property, Chapters 16C.05.20 through 16C.05.72 restrict uses and regulate structures to those that are consistent with the degree of flood hazard.
- (2) In advancing the above principals, the intent of Chapters 16C.05.20 through 16C.05.72 and their application is:
 - (a) To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
 - (b) To meet the minimum requirement of the National Flood Insurance program;
 - (c) To implement state and federal flood protection programs.

16C.05.20.050 Applicability

The guidelines and regulations set forth herein YCC Title 13 and related International Codes shall apply to all special flood hazard areas within the jurisdiction of Yakima County and shall be utilized when considering the issuance of permits through the administrative of quasi-judicial processes within Yakima County.

- (1) The provisions of Chapters 16C.05.20 through 16C.05.72 shall apply to any development proposed in a special flood hazard area,

- (2) Flood hazard permits shall be approved by Yakima County. County approvals shall only be granted when in accordance with Chapters 16C.05.20 through 16C.05.72 and other applicable local, state and federal regulations.
- (3) Topographic, engineering and construction information necessary to evaluate the proposed project shall be submitted to the department for approval.
- (4) The granting of a permit for any development or use shall not constitute a representation, guarantee or warranty of any kind or nature by Yakima County, or any official or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result thereto.

16C.05.20.060 Exemptions

The following uses and activities are exempt from the provisions of Chapters 16C.05.20 through 16C.05.72:

- (1) The alteration or substantial improvement of any structure listed on the National Register of Historic Places or a state inventory of historic places;
- (2) The installation and maintenance of aboveground utility transmission lines and poles;
- (3) Private driveways, fences and other accessory activities and/or uses necessary for agricultural uses which the building official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse;
- (4) Construction and practices normal or necessary for agricultural uses. The construction of an accessory barn or similar agricultural structure, designed to have a low flood-damage potential, not involving substantial cutting, filling, or watercourse modification, is subject to Section 16C.05.28.020(3)(a) through (e). (Ref. IRC 323)

16C.05.20.070 Interpretations

- (1) In the interpretation and application of Chapters 16C.05.20 through 16C.05.72, the provisions shall be considered as minimum requirements, shall be liberally construed in favor of Yakima County, and deemed neither to limit nor repeal any other powers granted under state statute. Its provisions shall be applied in addition to and as a supplement to provisions of the Yakima County Codes (YCC), Title 13, Building and Construction, YCC Title 19 – Unified Land Development Code and the Shoreline Master Program (YCC Title 16D). Chapters 16C.05.20 through 16C.05.72 are not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these chapters and other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent requirement shall prevail.
- (2) In an interpretation as to an exact location of the boundaries of the special flood hazard areas (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59, etc.) (Ref. IBC 104.1).

16C.05.20.080 Compliance

No structure or land shall hereafter be used, constructed, located, extended, converted or altered without full compliance with the terms of Chapters 16C.05.20 through 16C.05.72 and other applicable regulations.

16C.05.20.090 Warning and Disclaimer of Liability

The degree of flood protection required by Chapters 16C.05.20 through 16C.05.72 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. Chapters 16C.05.20 through 16C.05.72 do not imply that land outside the area of special flood hazards or uses permitted within such area will not be subject to flooding or flood damage.

16C.05.28 FLOOD HAZARD PROTECTION STANDARDS

Sections:

- | | |
|---------------|--------------------|
| 16C.05.28.010 | General Standards |
| 16C.05.28.020 | Specific Standards |

16C.05.28.010 General Standards

The following regulations shall apply in all special flood hazard areas:

(1) Anchoring and Construction Techniques.

(a) All new construction and substantial improvements shall be:

- (i) Anchored to prevent flotation, collapse or lateral movement of the structure; and
- (ii) Constructed using materials and utility equipment resistant to flood damage; and
- (iii) Constructed using methods and practices that minimize flood damage; and
- (iv) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques). Anchoring shall meet the specifications set forth below for structures located within one hundred feet of a floodway or the ordinary high water mark if no floodway has been established.

(c) All new construction and any improvements or additions to existing floodproofed structures that would extend beyond the existing floodproofing located within one hundred feet of the floodway or one hundred feet of the ordinary high water mark if no floodway has been established, shall be elevated to a height equal to or greater than the base flood, using zero-rise methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that non-zero-rise construction methods will not impede the movement of floodwater or displace a significant volume of water. The size and spacing of any support devices used to achieve elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified above in subsection (1)(a) of this section.

- (d) Except where otherwise authorized, all new construction and substantial improvements to existing structures shall require certification by a registered professional engineer, architect or surveyor that the design and construction standards are in accordance with adopted floodproofing techniques.
- (2) Utilities.
- (a) All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (3) Subdivision Proposals.
- Subdivision proposals shall:
- (a) Be consistent with the need to minimize flood damage;
- (b) Have roadways, public utilities and other facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (c) Have adequate drainage provided to reduce exposure to flood damage; and
- (d) Include base flood elevation data.
- (4) Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a watercourse in riverine situations, the department shall notify adjacent communities, the Department of Ecology and FEMA of the proposed development.

16C.05.28.020 Specific Standards

In all special flood hazard areas where base elevation data has been provided as set forth in Section 16C.05.20.010, the following regulations shall apply, in addition to the general regulations of Section 16C.05.28.010:

- (1) Residential Construction. (ref. IRC323.2)
- (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (c) Residential construction within one hundred feet of a floodway or the ordinary high water mark, if no floodway has been established, shall also meet the requirements of Section 16C.05.28.010(1)(c).
- (2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure, and any addition to an existing floodproofed structure that would extend beyond the existing floodproofing, shall either have

the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (a) Be floodproofed so that below an elevation one foot above base flood level the structure is watertight, with walls substantially impermeable to the passage of water; and
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (c) Be certified by a registered professional engineer or architect that the design and method of construction are in accordance with accepted standards of practice for meeting provisions of this subsection, based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official;
- (d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 16C.05.28.020(1)(b) above;
- (e) Meet the special standards for structures set forth in Section 16C.05.28.010(1)(c) above if within one hundred feet of a floodway or within one hundred feet of the ordinary high water mark and no floodway has been established;
- (f) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below the level). Flood proofing the building an additional foot will reduce insurance premiums significantly. (Ref. IBC 1612.5)

(3) Agricultural Construction. New construction and substantial improvement of any agricultural structure shall either have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation; or meet the floodproofing requirements of subsection (2) of this section. Agricultural construction or other accessory structures that constitute a minimal investment and comply with the floodway encroachment standards may be exempt from the floodproofing and elevation requirements of subsection (2) above when such structures, together with attendant utility sanitary facilities:

- (a) Have a low potential for structural flood damage;
- (b) Are designed and oriented to allow the free passage of floodwaters through the structure in a manner affording minimum flood damage; and
- (c) Ensure that all electrical and mechanical equipment subject to floodwater damage and permanently affixed to the structure be elevated a minimum of one foot above the base flood elevation or higher, or floodproofed;
- (d) Are constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and
- (e) Will not be used for human habitation.

All such structures shall be anchored to resist flotation, collapse, and lateral movement, and that only flood resistant materials be used for elements of these buildings below the base flood elevation.

(4) Manufactured Homes.

- (a) Manufactured homes shall be anchored in accordance with Section 16C.05.28.010(1)(b), shall have the lowest floor elevated to or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with Section 16C.05.28.010(1)(b).

16C.05.32 FLOODWAY FRINGE USES

Sections:

16C.05.32.010 Permitted Uses

16C.05.32.020 Prohibited Uses

16C.05.32.010 Permitted Uses

The following uses are permitted in the floodway fringe areas:

- (1) Any use permitted in the zoning district in accordance with YCC Title 19 of the Yakima County Code, unless prohibited by Section 16C.05.32.020.
- (2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with YCC Title 19 and where not otherwise inconsistent with Chapters 16C.05.20 through 16C.05.72; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:
 - (a) Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed.
 - (b) Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of Section 16C.05.36.010(2)(c).
 - (c) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all other agricultural and nonagricultural floodway fringe or special flood hazard areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage.
 - (d) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.
 - (e) Aboveground utility transmission line appurtenant structures, including valves, pumping stations or other control facilities, shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available, or in the event a floodway fringe or special flood hazard location is environmentally preferable. In such instances, aboveground structures shall be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately floodproofed.

16C.05.32.020 Prohibited Uses

The following uses shall be prohibited in floodway fringe areas:

- (1) New manufactured home parks and the expansion of manufactured home/parks.

16C.05.36 FLOODWAY USES

Sections:

16C.05.36.010 Permitted Uses

16C.05.36.020 Prohibited Uses

16C.05.36.010 Permitted Uses Permitted uses include any use permitted in the zoning district in accordance with YCC Title 19 of this code, provided that said use is in compliance with the flood hazard protection standards of Chapter 16C.05.28 and other applicable provisions of this title, and will have a negligible effect upon the floodway in accordance with the floodway encroachment provisions of Section 16C.05.36.020(2):

- (1) Surface mining, provided that the applicant can provide clear evidence that such uses will not divert flood flows causing channel-shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of Title 19 and the Yakima County Shoreline Management Master Program Regulations (Shoreline Master Program (Title 16D), where applicable);
- (2) Utility transmission lines, unless otherwise prohibited by this division; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:
 - (a) All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways,
 - (b) Electric transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed,
 - (c) Buried utility transmission lines transporting hazardous and nonhazardous materials, including but not limited to crude and refined petroleum products and natural gas, water and sewage, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by Yakima County, shall assume the conditions of a one-hundred-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the Yakima County Shoreline Management Master Program Regulations,
 - (d) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all agricultural areas requiring or potentially requiring subsurface drainage shall be a minimum of six feet as measured from ground surface to the top of the transmission line, or at other such depth as deemed necessary by on-site investigations performed by a qualified soils expert familiar with Yakima County

- soils. Burial depth in all other agricultural and nonagricultural floodway areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage,
- (e) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the level of the one-hundred-year flood, the transmission line shall be placed on the downstream side and protected from flood debris. In such instances, site-specific conditions and flood damage potential shall dictate placement, design and protection throughout the floodway. Applicants must demonstrate that such aboveground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be adequately protected from flood damage. If the transmission line is to be buried except at the waterway crossing, burial specifications shall be determined as in subsection (2)(C) of this section;
 - (f) Aboveground utility transmission line appurtenant structures, including valves, pumping stations, or other control facilities, shall not be permitted in the floodway,
 - (g) Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified one-hundred-year flood event;
- (3) Construction or reconstruction of residential structures only as authorized in Section 16C.05.36.020(3);
 - (4) Improvements to existing residential structures that are not substantial improvements per Section 16C.02.395; provided, the improvement complies with the requirement set forth in Section 16C.05.36.020(2).
 - (5) Water-dependent utilities and other installations which by their very nature must be in the floodway. Examples of such uses are: dams for domestic/industrial water supply, flood control and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; structures and nonstructural uses and practices; provided, that the applicant shall provide evidence that a floodway location is necessary in view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this title and the Shoreline Management Master Program (YCC Title 16D). In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection (2) above;
 - (6) Dikes, provided that the applicant can provide evidence that:
 - (a) Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences,
 - (b) Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired,
 - (c) The proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented;
 - (7) Roads and bridges, subject to the regulations of Section (2) above.

16C.05.36.020 Prohibited Uses

- The following uses/developments are prohibited in the floodway:
- (1) Any structure, including manufactured homes, designed for, or to be used for human habitation of a permanent nature (including temporary dwellings authorized by Section 15.72.060);
 - (2) All encroachments, including fill, new construction and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;
 - (3) Construction or reconstruction of residential structures within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the assessed value of the structure either (A) before the repair, reconstruction or improvement is started, or (B) if the structure has been damaged and is being restored, before the damage occurred. Work done on structures to correct existing violations of existing health, sanitary or safety codes, or to structures identified as historic places shall not be included in the fifty percent. If subsection (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Chapters 16C.05.20 through 16C.05.72, including those set forth in subsection (5) below;
 - (4) The construction or storage of any object subject to flotation or movement during flood level periods;
 - (5) The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway, are specifically prohibited:
 - (a) The filling of wetlands, except as authorized under Chapter 16C.06 (Fish and Wildlife Habitat and the Stream Corridor) and Chapter 16C.07 (Wetlands) of this title,
 - (b) Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or materials,
 - (c) Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the occurrence of the base flood discharge;
 - (6) The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited.

16C.05.40 NON-CONFORMING USES AND STRUCTURES

Sections:

16C.05.40.010	Generally
16C.05.40.020	Non-conforming Uses of Land
16C.05.40.030	Non-conforming Structures
16C.05.40.040	Improvements
16C.05.40.050	Restoration
16C.05.060	Discontinuance

16C.05.40.010 Generally

- (1) Within the special flood hazard areas established by Chapters 16C.05.20 through 16C.05.72 or amendments thereto, there may exist structures and uses of land and structures which were lawful before these chapters were adopted or amended, but which would be prohibited,

regulated or restricted under the terms of Chapters 16C.05.20 through 16C.05.72 or future amendment.

- (2) It is the intent of Chapters 16C.05.20 through 16C.05.72 to permit these lawful pre-existing nonconformities to continue until they are removed by economic forces or otherwise, but not to encourage their survival except in cases where continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of said chapters.
- (3) To avoid undue hardship, nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program, and upon which actual building construction has been diligently carried on; namely, actual construction materials placed in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved. October 1, 1995, the effective date of the ordinance codified in Title 16A shall be used as it applies to all other Critical Areas requirements established under Title 16A by Ordinance 8-1995.

16C.05.40.020 Non-conforming Uses of Land

If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a lawful use of land not conducted within a building exists that is made no longer permissible under the terms of said chapters as adopted or amended, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of the lot of record than that which it occupied at the effective date of adoption or amendment of Chapters 16C.05.20 through 16C.05.72.
- (2) At such time as a structure is erected thereon, the structure and the use of the land shall conform to the regulations specified by Chapters 16C.05.20 through 16C.05.72 and YCC Title 19.

16C.05.40.030 Non-conforming Structures

- (1) If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a structure is nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirement of said chapters and Chapter 19.33 of YCC Title 19, provided that the degree of nonconformity shall not be increased and the applicable elevation and/or floodproofing requirements of this title shall be observed, any structural alterations or enlargements of an existing structure under such conditions shall not increase the degree of nonconformity.
- (2) A structure, nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirements of Chapters 16C.05.20 through 16C.05.72, destroyed to an extent such that restoration costs would exceed fifty percent of the assessed value of the structure immediately prior to such occurrence, shall be considered completely destroyed and shall be required to meet all applicable requirements of this titles and YCC Title 19 upon restoration.

16C.05.40.040 Improvements

Nothing in Chapters 16C.05.20 through 16C.05.72 shall be construed to restrict normal structural repair and maintenance activities, including replacement of walls, fixtures and plumbing, provided that the value of work and materials in any twelve-month period does not exceed twenty-five percent of the assessed value of the structure prior to such work.

16C.05.40.050 Restoration

Nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to prohibit the restoration of the structural portions of a nonconforming use within six months from the date of its accidental damage by fire, explosion, or act of God; provided that the applicable elevation and/or floodproofing requirements of said chapters shall be adhered to if the structure is destroyed. A structure shall be considered to be destroyed if the restoration costs exceed fifty percent of the assessed value.

16C.05.40.060 Discontinuance

If the nonconforming use is discontinued for a period of twelve consecutive months or more, the nonconforming status of the use is terminated and any future use of the land or structures shall be in conformity with the provisions of this title. The mere presence of a structure, equipment, or material shall not be deemed to constitute the continuance of a nonconforming use unless the structure, equipment or material is actually being occupied or employed in maintaining such use. The ownership of property classed as nonconforming may be transferred without that fact alone affecting the right to continue such nonconforming use.

16C.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION

Sections:

- 16C.05.44.010 Administration
- 16C.05.44.020 Authority
- 16C.05.44.030 Permit – Required
- 16C.05.44.040 Permit – Application
- 16C.05.44.050 Permit – Review
- 16C.05.44.060 Use of Available Data
- 16C.05.44.070 Limitations
- 16C.05.44.080 Permit – Expiration & Cancellation
- 16C.05.44.090 Performance Bonds
- 16C.05.44.100 Appeals
- 16C.05.44.110 Coordination

16C.05.44.010 Administration

The Chief Building Official is vested with the duty of administering the rules and regulations relating to flood hazard protection in accordance with the provisions of Chapters 16C.05.20 through 16C.05.72 and may prepare and require the use of such forms as are essential to such administration.

16C.05.44.020 Authority

Upon application, the Chief Building Official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20 through 16C.05.72 and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of the policies of the Critical Areas Ordinance.

16C.05.44.030 Permit – Required

Prior to any development within a special flood hazard area a flood hazard permit shall be obtained. This permit may be in addition to the critical area development authorization as set forth in Chapter 16C.03 of this title.

16C.05.44.040 Permit – Application

All persons applying for a flood hazard permit shall submit a written application, accompanied by an application fee as specified in YCC Title 20, using the forms supplied. The application shall not be considered complete until the following minimum information is provided:

- (1) Name, address and telephone number of applicant;
- (2) Name, address and telephone number of property owner;
- (3) Project description and taxation parcel number;
- (4) Name of the stream or body of water associated with the floodplain in which the development is proposed;
- (5) Site plan map showing:
 - (a) Actual dimensions and shape of the parcel to be built on,
 - (b) Sizes and location of existing structures on the parcel to the nearest foot,
 - (c) Location and dimensions of the proposed development, structure or alteration,
 - (d) Location, volume and type of any proposed fill,
 - (e) The application shall include such other information as may be required by the administrative official, to clarify the application, including existing or proposed building or alteration, existing or proposed uses of the building and land, and number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot, and such other matters as may be necessary to determine conformance with, and provide for the enforcement of Chapters 16C.05.20 through 16C.05.72;
- (6) Information required by other sections of Chapters 16C.05.20 through 16C.05.72.

16C.05.44.050 Permit – Review

Flood hazard permit applications will be reviewed to determine:

- (1) That the floodproofing requirements and other provisions of Chapters 16C.05.20 through 16C.05.72 have been satisfied;
- (2) If the proposed development is located in the floodway, the floodway encroachment provisions of Section 16C.05.36.020(2) are met;
- (3) If the proposed development includes the alteration or relocation of a watercourse, the provisions of Section 16C.05.28.010(4) are met;
- (4) That the proposed development is a use permitted under Chapters 16C.05.20 through 16C.05.72 and YCC Title 19;
- (5) That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

16C.05.44.060 Use of Available Data

When base flood elevation data has not been provided in accordance with Section 16C.05.20.010; (Flood hazard areas established), the county shall obtain, review, and reasonably utilize any flood area extent from frequently flooded areas, [BG22] base flood elevation, and floodway data available from a federal, state or other source, in order to administer Section 16C.05.28.020 (Specific Standards) and 16C.05.36.020 (Floodway Prohibited Uses) and Chapter 16C.04 (Enforcement and Penalties). For flood hazard areas without elevations from FIRMs, they shall be determined for proposed structures by the flood official as the greater of the ground elevation at the flood map extent or the maximum ground elevation plus two feet at the proposed structure footprint. [BG23]

16C.05.44.070 Limitations

Permits issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized is a violation of Chapters 16C.05.20 through 16C.05.72 and punishable as provided by 16C.04 (Enforcement and Penalties).

16C.05.44.080 Permit – Expiration & Cancellation

If the work described in any permit has not begun within one hundred eighty days from the date of issuance thereof, the permit shall expire and be canceled by the chief building official.

16C.05.44.090 Performance bonds

- (1) The county may require bonds in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with approvals under Chapters 16C.05.20 through 16C.05.72. Bonds, if required, shall be furnished by the property owner, or other person or agent in control of the property.
- (2) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the department in an amount equal to that which would be required in the surety bond.

16C.05.44.100 Appeals

The decision to grant, grant with conditions or deny a flood hazard permit shall be final and conclusive unless the applicant appeals the decision pursuant to the procedure established for appeals in Chapter 16C.03.

16C.05.44.110 Coordination

Upon application, the Chief Building Official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20 through 16C.05.72 and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of this title.

16C.05.48 ELEVATION AND FLOODPROOFING CERTIFICATION

Sections:

16C.05.48.010	Applicability
16C.05.48.020	Certification Form
16C.05.48.030	Information to be Obtained and Maintained
16C.05.48.040	Certification Responsibility

16C.05.48.010 Applicability

Certification shall be provided to verify that the minimum floodproofing and elevation standards of Chapter 16C.05.28 have been satisfied. Certification shall be required only for the new construction or substantial improvement of any residential, commercial, industrial or nonresidential structure located in a special flood hazard area, except that agricultural and certain accessory structures constructed in accordance with the standards of Section 16C.05.28.020(3) shall not require certification. Such structures are still subject to elevation or floodproofing certification for flood insurance purposes.

16C.05.48.020 Certification Form

The form of the elevation and floodproofing certificate shall be specified by the Chief Building Official and shall be generally consistent with that required by FEMA for the administration of the National Flood Insurance Program.).

16C.05.48.030 Information to be obtained and maintained

The elevation and floodproofing certificate shall verify the following flood hazard protection information:

- (1) The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
- (2) The actual elevation (in relation to mean sea level) of floodproofing of all new or substantially improved floodproofed structures, and that the floodproofing measures utilized below the base flood elevation render the structure watertight, with walls substantially impermeable to the passage of water;
- (3) Where a base flood elevation has not been established according to Section 16C.05.20.010, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) as related to the highest adjacent grade, and whether or not the structure contains a basement.

16C.05.48.040 Certification Responsibility

The project proponent shall be responsible for providing required certification data to the Chief Building Official prior to the applicable construction inspection specified in the certification form. All elevation and floodproofing data specified in Section 16C.05.48.030 must be obtained and certified by a registered professional engineer, architect, or surveyor. The elevation and floodproofing certification shall be permanently maintained by the chief building official.

16C.05.52 VARIANCES

Sections:

16C.05.52.010	Procedure
16C.05.52.020	Variance limitations
16C.05.52.030	Conditions for Authorization
16C.05.52.040	Administrative Official's Decision
16C.05.52.050	Notification and Final Decision
16C.05.52.060	Power to Refer Decisions
16C.05.52.070	Appeals

16C.05.52.010 Procedure

Any person seeking a variance from the requirements of Chapters 16C.05.20 through 16C.05.72 authorized under Section 16C.05.52.020 shall make such request in writing to the department on forms supplied by the department. Upon receipt of a completed application and application fee for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent property within twenty days of the receipt of completed application and fee. The notice shall solicit written comment on the variance request and specify a time period not less than ten days from the date of mailing, during which written comments may be received and considered. The notice shall also state that copies of the administrative official's final decision will be mailed upon request. The administrative official may also solicit comments from any other person or public agency he or she feels may be affected by the proposal.

16C.05.52.020 Variance limitations

- (1) Variances shall be limited solely to the consideration of:
 - (a) Elevation requirements for lowest floor construction;
 - (b) Elevation requirements for floodproofing;
 - (c) The type and extent of floodproofing.
- (2) Variances shall not be considered for any procedural or informational requirements or use prohibitions of Chapters 16C.05.20 through 16C.05.72.

16C.05.52.030 Conditions for Authorization

Before a variance to the provisions of Chapters 16C.05.20 through 16C.05.72 may be authorized, it shall be shown that:

- (1) There are special circumstances applicable to the subject property or to the intended use, such as size, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone; and
- (2) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located; and
- (3) Such a variance is the minimum necessary, considering the flood hazard, to afford relief; and
- (4) Failure to grant the variance would result in exceptional hardship to the applicant; and
- (5) The granting of such a variance will not result in:
 - (a) Increased flood heights,
 - (b) Additional threats to public safety,
 - (c) Creation of nuisances,
 - (d) Extraordinary public expense,
 - (e) Conflicts with other existing local laws or ordinances.

16C.05.52.040 Administrative Official's Decision

After considering any comments received from other agencies, jurisdictions or adjoining property owners, the administrative official shall approve, approve with conditions, or deny the variance request. The administrative official shall prepare written findings and conclusions stating the specific reasons upon which the decision is based.

16C.05.52.050 Notification and Final Decision

The decision shall be issued within seven days from the end of the comment period. Further, the administrative official shall mail the findings and decision to the applicant and to other parties of record requesting a copy.

16C.05.52.060 Power to Refer Decisions

In exercising the duties and powers of implementing and administering Chapters 16C.05.20 through 16C.05.72, the administrative official may refer any variance application to the hearing examiner for action at a public hearing.

16C.05.52.070 Appeals

Any decision by the administrative official to approve or deny a variance request may be appealed subject to the procedures set forth in Section 16C.03.13 (Development Authorization – Review Procedure).

16C.05.72 MAP CORRECTION PROCEDURES

Sections:

16C.05.72.010 Federal Flood Hazard Map Correction Procedures

16C.05.72.010 Federal flood hazard map correction procedures.

The procedures for federal flood hazard map correction, as provided in federal regulations Section 70 CFR of the National Insurance Program are hereby adopted by reference.

Chapter 16C.06

FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM

Sections:

Introduction

16C.06.01 Purpose and Intent

16C.06.02 Protection Approach

Designation and Mapping

16C.06.03 Hydrologically Related Critical Area Features

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General Development Standards

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Water Dependency Development Standards and Buffer Requirements

16C.06.12 Use Classifications

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16C.06.17 Roads, Railroads and Parking

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16C.06.19 Shore Stabilization

16C.06.20 Dredging and Excavation

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16C.06.23 Reclamation

16C.06.01 Purpose and Intent

- (1) The stream corridor system includes hydrologically related critical areas, streams, lakes, ponds, and wetlands, and are part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to help conserve, protect, and, where feasible, restore and enhance this complex relationship. These regulations have been designed to:
 - (a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the functions and values of fish and wildlife habitat, wetlands, stream undercutting geologic hazards and frequently flooded areas; and to give special consideration to anadromous fish;
 - (b) Meet eligibility requirements of the National Flood Insurance Program (NFIP), and the authorities set forth in RCW 86.12.
- (2) The guidelines, policies, and standards of this chapter are intended to:
 - (a) Provide alternatives for necessary development, construction, and uses within a designated stream corridor and other hydrologically related critical areas;
 - (b) Prevent further degradation in the quantity and quality of surface and subsurface waters;
 - (c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation, and ecological relationships;
 - (d) Protect public and private properties from adverse effects of improper development within hazardous or sensitive areas of the stream corridor;
 - (e) Provide a zero net loss of natural wetlands functions and values together with, a gain of wetlands in the long term, if reasonably possible through voluntary agreements or government incentives;
 - (f) Establish measures to protect streams, lakes, ponds, and wetlands;
 - (g) Recognize that, based on WAC 365-190-~~130080~~¹⁵ (Fish and Wildlife Habitat Conservation Areas) ~~wildlife habitat conservation~~ means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination ~~red~~ to help assure long term population viability. land use planning is critically important; Fish and wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.

16C.06.02 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. Riparian corridors

offer a natural system of such linkages. Yakima County accomplishes fish and wildlife habitat protection in 3 parts:

- (a) Protect habitat for aquatic (in-water) species through stream, lake, pond- and wetland standards;
 - (b) Protect habitat for riparian (near-water) species through stream, lake, pond, and wetland standards and buffer requirements;
 - (c) Protect upland habitat conservation areas using the habitat protection measures of Chapter 16C.11.
- (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.
- (3) To accomplish upland wildlife protection on private lands, Yakima County ~~performed an assessment to map~~ uses Washington State Department of Fish and Wildlife staff consultation and Priority Habitat and Species mapping to identify wildlife habitat. ~~Only a small percentage of the mapped area is within private ownership and that is largely in remote areas of forest and rangeland. Consequently, part of~~ Yakima County's relies upon large lot/low density provisions of the Remote/Extremely Limited Development Potential (40-acre minimum), Forest Watershed (80-acre minimum) and Agriculture (40-acre minimum) zoning districts approach to protect upland wildlife on private lands ~~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. Proposed development within upland wildlife habitat areas is reviewed in accordance with 16C.03.02(3)(c)(ii) to determine if a habitat assessment is required.~~ [BG24]
- (4) Corridors for wildlife to move between large habitat areas are a component of wildlife habitat. ~~Riparian corridors offer a natural system of linkages between such areas.~~ In semi-arid regions such as Yakima County, riparian corridors not only offer migratory linkages between large habitat areas but also offer important refuge and habitat for numerous species that rely on the riparian areas for their existence. ~~Consequently,~~ Yakima County's approach to protect wildlife migration corridors ~~and riparian habitat~~ is to rely on the protection measures for stream corridors, wetlands, upland wildlife habitat, and Shoreline jurisdiction (YCC 16D), where applicable. [BG25]
- (5) 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 outlined in Section 16C.11.060 and 16C.11.070. 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.

Designation and Mapping

16C.06.03 Hydrologically Related Critical Area Features

The stream corridor and other hydrologically related critical areas [are designated critical areas and](#) include one or more of the following features:

- (1) Any floodway and floodplain identified as a special flood hazard area. Special flood hazard areas are those identified by the Federal Insurance Administration in the Flood Insurance Study for Yakima County which, together with accompanying Flood Insurance [Rate Maps and frequently flooded](#), ~~is~~[areas are](#) hereby adopted by reference and declared to be a part of this title as set forth in Chapters 16C.05.20 through 16C.05.72;
- (2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main channel and all secondary channels within the Ordinary High Water Mark;
- (3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-made lakes and ponds created within a stream channel designated under (2) above;
- (4) All wetlands, that meet the definition found in Section 16C.02.425, as required by WAC 365-190-080(1), and as designated in Section 16C.07.02(1) of the wetland chapter;
- (5) Where specifically cited, any flood-prone area not included in a designated floodway and floodplain, but indicated as flood-prone ~~by U.S. Soil Conservation Service soil survey data or geologic evidence developed through professional geologists or engineers~~ [\(i.e. specific flood frequency, stream channel migration\), by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.](#);
- (6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream channel, lake, or pond, designated in this section or from the edge of a wetland designated in this section according to the distances set forth in Section 16C.06.16 (Vegetative Buffers);

16C.06.05 Functional Properties

- (1) Streams, lakes and ponds and wetlands require a sufficient riparian area to support one or more of the following functional properties:
 - (a) Streambank and shore stabilization;
 - (b) Providing sufficient shade through canopy cover to maintain water temperatures at optimum levels and to support fish habitat;
 - (c) Moderating the impact of stormwater and meltwater runoff;
 - (d) Filtering solids, nutrients, and harmful substances;
 - (e) Surface erosion prevention;
 - (f) Providing and maintaining migratory corridors for wildlife;
 - (g) Supporting a diversity of wildlife habitat;
 - (h) Providing floodplain functions noted below;
 - (i) Contributing woody debris and organic matter to the aquatic environment;
 - (j) Providing altered climatic conditions different from upland areas.
- (2) Stream channels generally support one or more of the following functional properties:
 - (a) Groundwater recharge and/or discharge;
 - (b) Water transport;
 - (c) Sediment transport and/or storage;
 - (d) Biogeochemical functions (see lakes, ponds and wetland functions below);
 - (e) Channel migration and creation of a dynamic habitat mosaic;
 - (f) Food web and habitat functions

- (3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or lesser degree. Wetlands are often located along the margins of lakes and ponds, which often mixes the functions between the two. Lakes, ponds and wetlands generally provide one or more of the following functional properties:
- (a) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention and transformation;
 - (b) Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;
 - (c) Food web and fish and wildlife habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.
- (4) Floodplains generally provide one or more of the following functional properties:
- (a) Floodwater storage and passage, including the movement of high velocity flood waters;
 - (b) Sediment storage and recruitment;
 - (c) Food web and habitat functions;
 - (d) Nutrient sink and/or source;
 - (e) Groundwater recharge and/or discharge.
- (5) Some functions, as, for example, supporting a diversity of wildlife habitat, require larger areas which may not be achievable due to existing development and construction constraints. In these instances, adjustments to the minimum standards to accommodate such constraints may be necessary. However, a reduction of standards impairs the hydrologically related critical area's ability to support some functional properties. Reductions of standards should be offset by enhancement, restoration or preservation measures which replace lost functions or strengthen other functional properties if replacement of the lost functions is not possible.

16C.06.06 Stream, Lake and Pond Typing System

For purposes of this title, Yakima County hereby adopts a stream, lake and pond typing system, for those features designated as critical areas in Section 16C.06.03 (Hydrologically Related Critical Area Features), as follows:

- (1) **Type 1 streams**, lakes and ponds are those waters-, within their ordinary high water mark (OHWM), meeting the criteria as "shorelines of the state" and "shorelines of statewide significance" under RCW Chapter 90.58, but not including those waters' associated wetlands as defined in RCW Chapter 90.58. The current list of Shoreline waters, along with their specific shoreline environments are provided in Appendix B and C of the Shoreline Master Program. Type 1 streams and lakes are protected by the Shoreline Mater Program (YCC Title 16D), rather than the CAO;
- (2) **Type 2 streams** are those streams that may be perennial or seasonal and that are known to be used by anadromous fish or resident salmonids. Type 2 streams require protection due to the nature of their contributions to the functional properties listed in Section 16C.06.05. Designated Type 2 streams are listed in Appendix A of this title.
- (3) **Type 3 streams** include all perennial streams within Yakima County not classified as Type 1 or 2;
- (4) **Type 4 streams** are all intermittent streams within Yakima County not classified as Type 1, 2 or 3;
- (5) **Type 5 streams** are all ephemeral streams within Yakima County not classified as Type 1, 2, 3 or 4. Type 5 streams are not regulated under this title;

- (6) **Lakes and ponds** not designated as a shoreline that receive water from the OHWM of a Type 2, 3, or 4 stream shall have the same surface water type as the highest stream type associated with it;
- (7) **Natural lakes and ponds**, not designated as a shoreline, that do not receive water from the OHWM of a Type 1, 2, 3, or 4 stream shall be Type 3 ponds.

16C.06.07 Wetland Rating System

Wetlands within Yakima County are defined in Section 16C.02.425 and are shown on the data maps referenced in Section 16C.06.08 (Maps). Most, but not all, of the wetlands within Yakima County occur near streams. All wetlands deserve a standard of protection, through the use of vegetative buffers, that is directly related to their contribution to the functional properties listed in Section 16C.06.05 (Functional Properties) and Section 16C.07.04 (Wetland Functions and Rating). For regulatory purposes, wetlands are classified into four categories according to the Wetland Rating System found in Section 16C.07.04(2) (Wetland Functions and Rating) of the wetland chapter.

16C.06.08 Maps

Certain fish and wildlife habitat and hydrologically related critical areas have been inventoried and are depicted on a series of paper and electronic maps maintained at the Yakima County Public Services Department. The best available graphic depiction of critical areas within the county will be used and continuously updated as reliable data becomes available. Maps may be both regulatory and non-regulatory in nature as described below:

- (1) Regulatory maps are created with a defined process not necessarily corresponding directly with easily observable physical features such as streams and wetlands. These maps define the regulated critical areas. They are also formally adopted by the Board of Yakima County Commissioners and may only be changed by that body. Regulatory maps include the following:
 - (a) Any floodway or floodplain identified as a special flood hazard area by the Federal Insurance Administration in the Flood Insurance Study for Yakima County.
- (2) Administrative maps are intended to indicate the approximate presence, location and/or typing of the subject critical area features, and act as a trigger for further investigation of the extent and characteristics of critical areas in a specific project location. These maps were created using reconnaissance level or better data. Given site-specific variations in reconnaissance level data, more detailed information developed at the site-specific level may be used to modify the maps as it is developed; the maps maintained by the Yakima County Public Services Department do not officially define the extent or characteristics of specific critical areas; rather the physical characteristics that exist “on the ground” define the boundaries of the regulated critical areas. Administrative maps include, but are not limited to the following:
 - (a) Wetlands;
 - (b) Streams;
 - (c) Channel migration zone;
 - (d) Priority Habitat and Species (PHS) and Habitats of Local Importance - Mapped habitat areas for newly listed species will be generated as needed to supplement the existing maps. PHS and Habitats of local importance currently include:
 - i) Available maps from WDFW regarding the location of those Priority Habitat and Species listed in Appendix B.

- (ii) Type 2 Streams, lakes and/or ponds listed in Appendix A.
- (e) Upland Wildlife Habitat Analysis Map.
- (3) Other information sources – these are maps or other data sources, including special studies and management plans, which are neither produced or maintained by the Yakima County Public Services Department, which are used to indicate the presence of Critical Areas, importance or ranking of critical areas functions, or hazard or risk associated with Critical Areas. These information sources include, but are not limited to:
- (a) Comprehensive Flood Hazard Management Plans and associated studies;
 - (b) Soil Survey of Yakima County;
 - (c) Natural resource management plans, such as local and federal Recovery Plans, or Forest Plans prepared by the US Forest Service;
 - (d) Surficial Geologic Maps;
 - (e) Historic and Current Aerial Photo Series;
 - (f) Geohydraulic studies – geologic cross sections showing aquifers and confining units;
 - (g) Priority Habitat and Species Maps.

General Development Standards

16C.06.10 Prohibited Uses

The following uses and activities are prohibited within a designated hydrologically related critical area:

- (1) Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;
- (2) Confinement feeding operations including livestock feedlots and dairy confinement areas;
- (3) The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;
- (4) The draining or filling of a wetland, lake or pond, except as provided for in Section 16C.06.21 (Filling);
- (5) The removal and transport of material for fill outside of the stream corridor;
- (6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds, and other similar waste disposal facilities. This provision does not include municipal wastewater lines or septic systems approved by a local or state agency with authority to permit such facilities;
- (7) Solid waste disposal sites;
- (8) Automobile wrecking yards;
- (9) Fill for the sole purpose of increasing land area within the stream corridor;
- (10) Those uses located within the floodway fringe that are listed in 16C.05.32.020 (new and expanded mobile or manufactured home parks);
- (11) Those uses located within the floodway that are listed in 16C.05.36.020 (dwellings, filling wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and any use causing flood impacts.)

- ~~(12)~~ Construction or placement of an inhabitable structure within an identified landslide hazard area, landslide run-out area, or their buffers. BG26

16C.06.11 General Policies and Standards

The following policies and standards shall apply to any development, construction, or use carried out within a designated hydrologically related critical area:

- (1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland buffers shall be marked on the ground before any development, construction, or use is initiated.
- (2) ~~Any disturbance to E~~existing riparian vegetation and any unique or sensitive vegetative species identified on the project site within the stream corridor shall be mitigated according to the standards set forth in 16C.03.10~~disturbed to the minimum extent possible.~~
- (3) ~~Any disturbance to N~~esting areas and other sensitive wildlife habitat identified within a stream corridor shall be mitigated according to the standards set forth in 16C.03.10~~disturbed to the minimum extent possible.~~
- (4) Projects within the stream corridor shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered.
- (5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved by a local, state or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the ~~Eastern Washington~~Yakima Regional [BG27] Stormwater Manual ~~are exempt from the requirements below.~~ are considered to have met the following required development standards that apply to all projects:
 - (a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.
 - (b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion.
 - (c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.
 - (d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and meltwater runoff into stream channels, drainage ways, and conduits, shall provide on-site or off-site facilities for the detention, control, and filtration of such increases.
 - (e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.
 - (f) Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.
- (6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.
- (7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.

- (8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.
- (9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.
- (10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.
- (11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.
- (12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.
- (13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.
- (14) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (15) Development, construction, or uses within the hydrologically related critical area that would contribute to the degradation of the functions and values shall be avoided or mitigated using mitigation sequencing as outlined in Section 16C.03.10 (Mitigation Requirements).
- (16) Development shall not obstruct, cut off, or isolate stream corridor features.
- (17) Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership.
- (18) ~~Yakima County will utilize the Washington State Department of Archaeology and Historic Preservation's (DAHP) archaeological and historic database to determine if prospective land use permits may impact archaeological or cultural resources. As part of permit review, if the property is within 500' of an identified archaeological or cultural resource site, applicants will be required to consult with both the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) and DAHP to determine if their project has any potential impacts to those resources. On project permits beyond 500' of an identified archaeological or cultural resource site, Yakima County will notify the Yakama Nation on projects that require notification, as well as DAHP through the SEPA register.~~ If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify Yakima County, the Washington State Office of Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).
- (19) The provisions of Chapters 16C.05.20 through 16C.05.72 of this title shall also apply to the development of lots and the placement, construction, or installation of structures in floodways and floodplains.

- (20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using reclamation standards in Section 16C.06.23 (Reclamation).
- (21) Projects located within the floodway must meet the requirements of 16C.05.36.010 (Floodway – Permitted Uses).
- (22) Projects within a floodplain must meet the requirements of Section 16C.05.28. (Flood Hazard Protection Standards) and 16C.05.32 (Floodway Fringe Uses).
- (23) Changing from an existing use or development which does not meet the provisions of this chapter to a new use shall be reviewed in light of the following:
- (a) The conversion will demonstrably reduce impacts to stream corridor and other hydrologically related critical area features; and
 - (b) The conversion will restore and/or enhance the functional properties outlined in Section 16C.06.05 (Functional Properties).

Water Dependency Development Standards and Buffer Requirements

16C.06.12 Use Classifications

For purposes of this chapter, the components of any development, construction, or use requiring a critical area development authorization shall be classified as provided below, and shall conform with the development standards applicable to the classification provided in Sections 16C.06.13 through 16C.06.15, except for those activities listed in Section 16C.03.05 (Minor Activities Allowed without a Permit):

- (1) Water Oriented Uses are one of the following two categories of uses:
- (a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland crossings for roads and railroads, stream and wetland crossings for utilities, swimming beaches, fishing sites, in-water or on-land shore stabilization structures, livestock watering sites, and other uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. This provision applies only to the specific portion of a project that is demonstrably dependent upon the water or shore.
 - (b) A water-related use is one not intrinsically dependent on a waterfront location but whose economic viability is enhanced by a waterfront location either because it requires large quantities of water, or because it provides services for water dependent uses and the proximity to its customers makes such services less expensive and/or more convenient. Examples would include thermal power plants, wastewater treatment plants, water processing and treatment plants, support services for fish hatcheries or aquaculture, fly shops and boat rental shops.
- (2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

16C.06.13 Water-dependent Uses

The following provisions shall apply to water-dependent uses:

- (1) Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore;
- (2) Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers);

- (3) Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.

16C.06.14 Water-related Uses

The following provisions shall apply to water-related uses:

- (1) Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water;
- (2) Structures and use areas shall not be located within the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers) except where existing development or the requirements associated with the use make such a location unavoidable.

16C.06.15 Non-water Oriented Uses

The following provisions shall apply to non-water-oriented uses:

- (1) Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers);
- (2) Construction abutting the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers) shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

16C.06.16 Vegetative Buffers

(1) Establishment. There is hereby established a system of vegetative buffers that are necessary to protect and maintain the functions and values of certain hydrologically related critical areas. Standard buffers for streams, lakes, ponds and wetlands, based on a review of the best available science, are listed in table 6-1 and 6-2.

- (a) Vegetative buffers shall be measured horizontally from the Ordinary High Water Mark (OHWM) for streams, lakes and ponds, and from the wetland edge for wetlands, as identified in the field. The width of the buffer shall be determined according to the stream or wetland type.
- (b) Buffer width may be reduced through an Adjustment (16C.03.23) permit process. 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).
- (c) The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation is degraded, then no adjustment to the buffer width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

Table 6 – 1

Stream Type	Buffer Width
	See 16C.06.16, subsections (1)(a)-(c).
Type 1 Shoreline streams, lakes and ponds	100' (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))

Type 2 streams, lakes and ponds	100'
Type 3 streams (Perennial), lakes and ponds	50'
Type 4 streams (Intermittent), lakes and ponds	25'
Type 5 streams (Ephemeral)	No buffer standards Type 5 streams are not regulated through buffer requirements, but <u>However,</u> 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.

Table 6-2

Type 1 Wetlands	Type 2 Wetlands	Type 3 Wetlands	Type 4 Wetlands
200'	100'	75'	50'

Land Modification Development Standards

16C.06.17 Roads, Railroads and Parking

The following provisions shall apply to the location and construction of roads, railroads and parking within a designated hydrologically related critical area; except that logging roads, being a special category of roads, may be regulated as Forest Practices under this title (refer to those relevant sections):

- (1) Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor, or where existing development, topography, and other conditions preclude locations outside the stream corridor.
 - (a) Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
 - (b) Roadways that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.
 - (c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate stream corridor features.
- (2) Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade, or shall be transported outside the corridor;
- (3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood-prone;

- (4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor;
- (5) Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water, sediment and woody debris;
- (6) The preservation of natural stream channels and drainage ways shall be preferred over the use of culverts, where culverts are the preferred method, large, natural bottom culverts, multi-plate pipes and bottomless arches are preferred;
- (7) The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.
- (8) Where fish are present, ~~for there is potential for fish to be present~~, culverts shall be designed and constructed to specifications provided through the Department of Fish and Wildlife ~~or a comparable source of expertise~~;
- (9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed away during high water;
- (10) Roads must be designed and constructed using established flood resistant and design and construction methods when they may be subject to damage by flood waters;
- (11) Roads and bridges within floodways must meet the requirements of Section 16C.05.36.010 (2) and (7).

16C.06.18 Utility Transmission Lines and Facilities

The following provisions shall apply to the location, construction, or installation of utility transmission lines and facilities (such as those for wastewater, water, communication, natural gas, etc.) within a designated hydrologically related critical area:

- (1) Utility transmission lines and facilities shall be permitted within the stream corridor only where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor.
- (a) Utility transmission lines and facilities across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
- (b) The construction of utility transmission lines and facilities within a stream corridor shall be designed and located to ensure minimum disruption to the functional properties specified under Section 16C.06.05 (Functional Properties) of this title.
- (2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy replacement or repair with minimal disturbance to the stream corridor;
- (3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is greater, and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis;
- (4) Wherever possible, new aboveground installations shall use available, existing bridge and utility locations and stream corridor crossings as opposed to creating new locations and stream corridor crossings;
- (5) Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical;
- (6) Transmission support structures shall be located clear of high flood velocities, located in areas of minimum flood depth which require the least floodproofing, and shall be adequately floodproofed;

- (7) Underground utility transmission lines shall be constructed so they do not alter, intercept or dewater groundwater patterns that support streams, wetlands and hyporheic flow;
- (8) All new and replacement water supply systems and wastewater systems within a special flood hazard area must meet the requirements of 16C.05.28.010(2) (re: infiltration or discharge into or out of the system);
- (9) Utility transmission lines within the Floodway Fringe shall meet the standards of 16C.05.32.010(2);
- (10) Utility transmission lines within the Floodway shall meet the standards of 16C.05.36.010(2).

16C.06.19 Shore Stabilization

- (1) The following provisions shall apply to shore stabilization projects:
Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, or facilities, and which stabilization will not jeopardize other upstream or downstream properties;
- (2) Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise using the Washington State Aquatic Habitat Guidelines Program Integrated Streambank Protection Guidelines (ISPG), or other accepted guidelines;
- (3) Stabilization projects shall be confined to the minimum protective measures necessary to protect the threatened property;
- (4) The use of fill to restore lost land may accompany stabilization work, provided no fill is placed waterward of the resultant shore ~~the resultant shore does not extend beyond~~ the new ordinary high water mark, finished grades are consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with Section 16C.06.21 (Filling);
- (5) Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects;
- (6) Alternative Preferences. Vegetation, berms, bioengineering techniques, and other nonstructural alternatives which preserve the natural character of the shore shall be preferred over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization. Riprap using rock or other natural materials shall be preferred over concrete revetments, bulkheads, breakwaters, and other structural stabilization;
- (7) Applications to construct or enlarge dikes or levees shall meet the requirements of 16C.05.36.010(6);
- (8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore;
- (9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or other solid construction methods;
- (10) All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

16C.06.20 Dredging and Excavation

The following provisions shall apply to dredging and excavation within a designated hydrologically related critical area:

- (1) Dredging in surface waters shall be allowed only where necessary because of existing navigation needs, habitat restoration or improvement, maintenance or construction of water-dependent uses;
- (2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use;
- (3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging;
- (4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials;
- (5) Entries across shore and wetland edges to accomplish dredging or excavation shall be confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage;
- (6) Dredging and excavation shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes;
- (7) Dredge spoils are also considered fill, and shall not be deposited within the stream except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.

16C.06.21 Filling

The following provisions shall apply to filling activities within a designated hydrologically related critical area:

- (1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses, or an approved reclamation plan under Section 16C.06.23 (Reclamation) or approved compensatory mitigation plan under Section 16C.03.17(13);
- (2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter;
- (3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods;
- (4) Fill in floodplains shall meet the requirements of Chapters 16C.05.20 through 16C.15.072 (Flood Hazard Areas);
- (5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities;
- (6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality;
- (7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes;
- (8) Fill and finished surface material shall require low maintenance, provide high resistance to erosion, and prevent or control the migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless the Washington Department of Fish and Wildlife indicates other options are preferred;
- (9) Projects that propose fill ~~shall make every effort to~~ must acquire the fill onsite (also known as compensatory storage), unless documentation is provided demonstrating that onsite fill is not available or substandard ~~suitable for the project where appropriate;~~
- (10) Fill should not obstruct, cut off, or isolate stream corridor features.

16C.06.22 Commercial Mining of Gravels

The following provisions shall apply to the commercial mining of gravels within a designated hydrologically related critical area, except that mining may be regulated as Forest Practices under this title, (refer to those relevant sections):

- (1) Prior to the authorization of a commercial gravel mining operation, the project proponent shall provide maps to scale which illustrate the following:
 - (a) The extent to which gravel excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation;
 - (b) The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation;
 - (c) The description, location, and extent of any proposed subsequent use that would be different than existing uses.
- (2) Wherever feasible, the operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value;
- (3) Any surface mining allowed within the floodway shall meet the standards of 16C.05.36.010(1);
- (4) Except where authorized by Yakima County in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:
 - (a) The excavation zone for the removal of gravels shall be located a minimum of one hundred feet upland from the ordinary high water mark (OHWM) of the stream channel;
 - (b) Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM;
 - (c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.
- (5) Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

16C.06.23 Reclamation

The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:

- (1) Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation within the stream corridor;
- (2) Large-scale projects or projects extending over several months shall be phased to allow reclamation of areas where work or operations have been completed;
- (3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season, and other seasonal variables that influence restoration and recovery;
- (4) Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas;
- (5) Where existing development and construction prevent the return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent stream corridor degradation;
- (6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the materials involved;

- (7) The replacement or enhancement of vegetation within ~~wetlands~~critical areas ~~and or their~~required vegetative buffers shall use naturally occurring, native plant species. ~~In other parts of the stream corridor, naturally occurring, native plant species shall be used, unless a showing of good cause acceptable to the Administrative Official is provided, in which case self-maintaining or low maintenance plant species compatible with native vegetation shall be preferred over non-native and high maintenance species.~~^[BG28]

PC Recommended Draft

Chapter 16C.07
WETLANDS

Sections:

- 16C.07.01 Purpose and Intent
- 16C.07.02 Designating and Mapping
- 16C.07.03 Protection Approach
- 16C.07.04 Wetland Functions and Rating
- 16C.07.05 Compensatory Mitigation Requirements
- 16C.07.06 Wetland Mitigation Banks

16C.07.01 Purpose and Intent - The purpose and intent of the provisions protecting wetland critical areas is equivalent to the purpose and intent for Chapter 16C.06.01 (Purpose and Intent).

16C.07.02 Designating and Mapping

- (1) Wetlands are those areas that meet the definition found in Section 16C.02.425 as provided in RCW 36.70A.030(21). All areas within Yakima County meeting the wetland definition are hereby designated critical areas and are subject to the provisions of this title. The following clarifications guide the application of the wetland definition:
 - (a) Due to the inherent design of most irrigation systems, such systems are reasonably and foreseeably expected to result in some leakage or seepage. Such leakage or seepage is a normal result of utilization of irrigation systems and is deemed for the purposes of this title to be a non-regulated, artificial wetland.
- (2) The approximate location and extent of wetlands are shown on maps maintained by Yakima County, which may include information from the National Wetlands Inventory produced by the US Fish and Wildlife Service and soil maps produced by United States Department of Agriculture National Resources Conservation Service that are useful in helping to identify potential wetland areas. These maps are to be used as a guide for Yakima County, project applicants and/or property owners, and may be continuously updated as wetlands are more accurately identified, located and delineated.

16C.07.03 Protection Approach

- (1) Wetlands will be protected using the Protection Approach for Hydrologically Related Critical Areas found in 16C.06.02 (Protection Approach), which accommodates issues affecting wetlands.
- (2) Wetlands and their functions will be protected using the standards found in the Stream Corridor Chapter (16C.06), which includes provisions to:
 - (a) Follow mitigation sequencing as outlined in Section 16C.03.10 (Mitigation Requirements);
 - (b) Avoid degrading the functions and values of the wetland and other critical areas;
 - (c) Provide a zero net loss of wetland functions and values together with, if reasonably possible through voluntary agreements or government incentives, a gain in functions and values through the long term.

16C.07.04 Wetland Functions and Rating

- (1) Wetlands are unique landscape features that are the interface between the aquatic and terrestrial environments. Wetlands provide the following functions:
- (a) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention, and transformation;
 - (b) Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;
 - (c) Food web and habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.
- (2) Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the *Washington State Wetland Rating System for Eastern Washington*, ~~revised August 2004~~ 2014 Update (Ecology Publication #~~0414-06-15~~ 030 - ~~http://www.ecy.wa.gov/pubs/0406015.pdf~~ <https://fortress.wa.gov/ecy/publications/SummaryPages/1406030.html>) as determined using the appropriate rating forms contained in that publication. These categories are summarized as follows:
- (a) Category I wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible or too difficult to replace within a human lifetime, and provide a high level of functions. Generally, these wetlands are not common and make up a small percentage of the wetlands within Yakima County. The following types of wetlands are Category I:
 - i) Alkali wetlands are characterized by the presence of shallow saline water with a high pH and provide the primary habitat for several species of migrant shorebirds and are also heavily used by migrant waterfowl and small alkali bee that is used to pollinate alfalfa and onion for seed production;
 - ii) Wetlands of High Conservation Value (formerly called Natural Heritage Wetlands) - Wetlands that are identified by scientists of the Washington Department of Natural Resources Natural Heritage Program as important ecosystems for maintaining plant diversity that represent rare plant communities or provide habitat for rare plants are uncommon in eastern Washington ~~high quality, relatively undisturbed wetlands, or wetlands that support state Threatened, or Endangered plant species;~~
 - iii) Bogs and Calcareous Fens are peat wetlands sensitive to disturbance and have not been successfully re-created through compensatory mitigation. Bogs are wetlands with peat soils and a low pH, usually a pH <5. Calcareous fens are a type of alkaline, rather than acidic wetland, maintained by groundwater that have a neutral or high pH and high concentrations of calcium and other alkaline minerals;
 - iv) Mature and old-growth forested wetlands with native slow growing trees, which include Western Red Cedar (*Thuja plicata*), Alaska Yellow Cedar (*Chamaecyparis nootkatensis*), pine spp. ~~ecies~~ (mostly White pine - *Pinus monticola*), Western Hemlock (*Tsuga heterophylla*), Oregon White Oak (*Quercus garryana*) and Englemann Spruce (*Picea engelmannii*);
 - v) Forested wetlands with stands of Aspen contribution as a priority habitat far exceeds the small acreage of these stands and relatively small number of stems (Hadfield & Magelssen, 2004). Furthermore, mature stand of aspen and its underground root system

- may be difficult to reproduce. Regeneration of aspen stands by sexually produced seeds is an unusual phenomenon (Romme et al., 1997);
- vi) Wetlands scoring ~~2270~~ points or more (out of ~~27400~~) from the rating of functions are Category I wetlands in the Eastern Washington Wetland Rating System.
- (b) Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include:
- i) Forested wetlands in the floodplains of rivers are an important resource in the floodplains of rivers, especially in the areas through which the river may flow regularly (often called the channel migration zone). Trees in the Floodplains are critical to the proper functioning and the dynamic processes of rivers. They influence channel form, create pools, riffles, and side channels that are essential habitat for many fish and other aquatic species. These trees also create localized rearing and flood refuge areas, and contribute to the stabilization of the main river channel (NRC, 2002);
- ii) Mature and old-growth forested wetlands with ~~native~~-fast growing native trees, which include Alders (Red - *Alnus rubra*, Thin-leaf - *A. incana ssp. tenuifolia*), Cottonwoods (Narrow-leaf - *Populus angustifolia*, Black - *P. balsamifera*), Willows (Peach-leaf - *Salix amygdaloides*, Sitka - *S. sitchensis*, Pacific - *S. lasiandra*); Quaking Aspen (*Populus tremuloides*); or Water Birch (*Betula occidentalis*)
- iii) Vernal pools, also called rainpools, are ecosystems located in a landscape with other wetlands retain water until the late spring when they dry out to allow some strictly aquatic organisms to flourish, and provide areas where migrating waterfowl can find food and pair bonding;
- iv) Wetlands scoring between ~~1954-2169~~ points (out of ~~27400~~) on the questions related to the functions present are Category II wetlands in the Eastern Washington Wetland Rating System.
- (c) Category III wetlands are often smaller, less diverse ~~and~~/or more isolated from other natural resources in the landscape than Category II wetlands. Category III wetlands include:
- i) vernal pools that are isolated, and
- ii) wetlands with a moderate level of functions (scoring between ~~1630 - 1850~~ points) in the Eastern Washington Wetland Rating System and can often be adequately replaced with a well-planned mitigation project.
- (d) Category IV wetlands have the lowest levels of functions, (scoring less than ~~1630~~ points) in the Eastern Washington Wetland Rating System, and are often heavily disturbed. These are wetlands that should be able to be replaced, and in some cases be improved. These wetlands may provide some important functions, and also need to be protected.
- (3) The wetland rating categories as described in section (2), above, shall be applied to projects which are submitted on or after the date of adoption of these provisions. The wetlands shall be rated as they exist on the day of project application submission, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. However, illegal modifications to wetlands which have been made since the original adoption of the Critical Areas Ordinance (YCC Title 16A 1995) shall not be considered when rating the wetland. Information regarding the original condition of illegally modified wetlands that can not be discerned from aerial photographs or other reliable information sources, which is needed to complete the *Eastern Washington Wetland Rating System* data sheets, shall use the highest

appropriate points value within each missing data field of the rating sheet to complete the rating.

16C.07.05 Compensatory Mitigation Requirements

Projects that propose to compensate for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory mitigation for alterations to wetlands shall provide no net loss of wetland functions and values, and must be consistent with the Mitigation Plan Requirements in ~~section~~ Section 16C.03.17 (13) (Compensatory Mitigation Plans). The following guidance documents were developed to assist applicants in meeting the regulations and requirements.

- (1) Compensatory mitigation plans ~~must~~ be consistent with [Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance](#) and ~~[Guidance on Wetland Mitigation in Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals](#)~~ or as revised (~~Washington State Department of Ecology, U.S. Army Corps of Engineers (Seattle District), and U.S. Environmental Protection Agency Region 10; Ecology publication number 0406-06-013B 011B~~ <https://fortress.wa.gov/ecy/publications/summarypages/0606011b.html>~~<http://www.ecy.wa.gov/v/programs/sea/bas-wetlands/volume2final.html>~~ <http://www.ecy.wa.gov/programs/sea/Wetlands/mitigation/guidance/index.html> ~~see latest update at~~ <http://www.ecy.wa.gov/programs/sea/Wetlands/mitigation/guidance/index.html>).
- (2) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent with “Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands – Appendix 8-D- Section 8-D.3” or as revised (Washington State Department of Ecology. Publication number 05-06-008 - <https://fortress.wa.gov/ecy/publications/parts/0506008part2.pdf>~~<http://www.ecy.wa.gov/programs/sea/wetlands/pcW2014Appendix80.pdf>~~ <https://fortress.wa.gov/ecy/publications/summarypages/0506008.html>~~<http://www.ecy.wa.gov/v/programs/sea/bas-wetlands/volume2final.html>~~).

16C.07.06 Wetland Mitigation Banks

- (1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - (a) The bank is certified under RCW 90.84 and its administrative rules WAC 173-700;
 - (b) The Administrative Official determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - (c) The proposed use of credits is consistent with the terms and conditions of the bank’s certification.
- (2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank’s certification.
- (3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

Chapter 16C.08
GEOLOGICALLY HAZARDOUS AREAS

Sections:

16C.08.01 Purpose and Intent

16C.08.02 Mapping and Designation

16C.08.03 Geologically Hazardous Areas Protection Approach

16C.08.04 Supplemental Development Review Procedure for Geologically Hazardous Areas

16C.08.05 General Protection Requirements

16C.08.01 Purpose and Intent

(1) Geologically hazardous areas include those areas susceptible to erosion, sliding, earthquake or other geological events. They pose a threat to the health and safety of the citizens of Yakima County when incompatible development is sited in areas of significant hazard. Some risks due to geologic hazards might be capable of mitigation through engineering, design, or modified construction standards so the level of risk is reduced to an acceptable level. However, when mitigation is not feasible, development within geologically hazardous areas is best avoided.

(2) The purposes of this chapter are to:

- (a) Minimize risks to public health and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas;
- (b) Maintain natural geological processes while protecting existing and new development;
- (c) Establish review procedures for development proposals in geologically hazardous areas.

16C.08.02 Mapping and Designation

(1) Geologically hazardous areas are areas that are susceptible to one or more of the following types of hazards and are designated as critical areas, based on WAC 365-190-~~120(3)080 (4)(b)~~ through (h):

- (a) Erosion hazards;
- (b) Landslide hazards, ~~which in the Yakima County inventory includes:~~ [BG29]
- (c) Oversteepened slope hazards;
- (d) Alluvial fan/flash flooding hazards;
- (e) Avalanche hazards, and;
- (f) Stream undercutting hazards;
- (g) Seismic hazards (referred to below as earthquake hazards); and
- (h) Volcanic hazards;

(2) The approximate location and extent of **Erosion Hazard Areas** are shown on the County's critical area map titled "Erosion Hazard Areas of Yakima County". Erosion hazard areas were identified by using the "*Soil Survey of Yakima County Area, Washington*" and the "*Soil Survey of Yakima Indian Reservation Irrigated Area, Washington, Part of Yakima County*". The analysis utilized the general soil map unit descriptions of severe and very severe hazard of water erosion.

(3) The approximate location and extent of the remaining **Geologically Hazardous Areas** are shown on the County's critical area map titled "Geologically Hazardous Areas of Yakima County". The following geologically hazardous areas, with the corresponding map code in

parenthesis, are mapped and classified using the stated criteria based on WAC 365-190-120(3) ~~080(4) (b) through (h)~~:

- (a) Landslide Hazard Areas (LS) – These include places where landslides, debris flows, or slumps have already occurred. Where sliding is presumed to have occurred within 10,000 years or less is shown as High Risk (LS3) on the map. Slides thought to be older than 10,000 years but still capable of movement are shown as Intermediate Risk (LS2). Areas where slides are absent are unlabeled and combined with other Low Risk areas.
- (b) ~~(i)~~ Oversteepened Slope Hazard Areas (OS) - These include areas with slopes steep enough to create potential problems. High risk areas (OS3) have a high potential to fail, and include slopes greater than 40%, and consist of areas of rock fall, creep, and places underlain with unstable materials. Intermediate Risk areas (OS2) are less likely to fail but are still potentially hazardous. This category also includes some slopes between 15 and 40%. Low Risk areas, unlikely to fail, are unlabeled and combined with other Low Risk categories.
- (c) Alluvial Fan/Flash Flooding Hazard Areas (AF) - These are areas where flash flooding can occur, and are often associated with inundation by debris from flooding. They include alluvial fans, canyons, gullies, and small streams where catastrophic flooding can occur. They do not include all areas where flash flooding may occur with Yakima County. Flooding may also occur in larger streams and rivers, but these are depicted in the "Flood Insurance Study for the Unincorporated Areas of Yakima County," dated March 2, 1998, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps, and any amendments which may thereafter be made by the Federal Emergency Management Agency, rather than on the Geologically Hazardous Areas Map. High Risk areas (AF3) are those most likely to experience flooding. These areas usually involve larger drainage areas, easily eroded sediments, and steeper gradients. Intermediate Risk areas (AF2) have some potential for flash flooding but involve smaller drainages and flatter slopes. Low Risk areas are where flash flooding is unlikely, are unlabeled and combined with other Low Risk areas on the map.
- (d) Avalanche Risk Hazard Areas (AR) - Areas of avalanche hazards are limited (within the mapped boundaries) to areas near the Cascade Crest. High Risk areas (AF3) are those in areas of high snowfall where avalanche scars are visible and slopes are steep to moderately steep. These areas could also be rated OS3. Intermediate Risk areas (AF2) are usually adjacent to AF3 areas but where vegetation is still in place and slopes are moderate. AF2 and AF3 areas are mapped on the basis of aerial photography and observed scars. Climatic data (snowfall, wind direction, etc) are necessary for more detailed mapping. Low Risk areas, where avalanches are unlikely, are unlabeled and combined with other Low Risk geologic hazards.
- (e) ~~(iv)~~ Stream Undercutting Hazard Areas (SU) - These areas are confined to banks near main streams and rivers where undercutting of soft materials may result. High Risk areas (SU3) include steep banks of soft material adjacent to present stream courses. Intermediate Risk areas (SU2) are banks along the edge of a flood plain but away from the present river course. Low Risk areas are unlabeled and combined with other Low Risk areas on the maps.
- (f) Earthquake Activity Hazard Areas (EA) - Recorded earthquake activity in Yakima County is mostly marked by low magnitude events and thus low seismic risk. One exception is an area along Toppenish Ridge where Holocene faulting may have produced earthquakes of

- as much as magnitude 7. Zones of surficial fault scarps are shown on High Risk areas (EA3) while areas adjacent to the scarps are assigned Intermediate Risk (EA2). The rest of the county is Low Risk, are unlabeled, and combined with other low risk hazards.
- (g) Suspected Geologic Hazard Areas (SUS) – These are areas for which detailed geologic mapping is lacking but preliminary data indicate a potential hazard. No risk assessment (1-2-3) is given for these areas. Most are probably OS or LS hazards.
- (h) Risk unknown hazard areas (UNK) - In these areas geologic mapping is lacking or is insufficient to make a determination. All of these areas are associated with other classified geologic hazards, and most are located in remote areas of Yakima County.
- (4) Volcanic Hazard Areas are not mapped but are defined as areas subject to pyroclastic (formed by volcanic explosion) flows, lava flows and inundation by debris flows, mudflows or related flooding resulting from volcanic activity. Volcanic Hazard Areas in Yakima County are limited to pyroclastic (ash) deposits. While Yakima County contains a portion of Mt Adams and is in close proximity to Mt Rainer, and Mt St. Helens, the threat of volcanic hazards is minimal and limited to ash deposition. The more devastating effects of volcanic activity such as lava flows, and lahars (volcanic landslide or mudflow) are not possible due to intervening ridges. No specific protection requirements are identified for volcanic hazard areas.
- (5) This chapter does not imply that land outside mapped geologically hazardous areas or uses permitted within such areas will be without risk. This chapter shall not create liability on the part of Yakima County, any officer, or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

16C.08.03 Geologically Hazardous Areas Protection Approach

- (1) Erosion Hazard Areas – Protection measures for erosion hazard areas will be accomplished by implementing the regulatory standards for erosion and drainage control required under YCC Title 13 (Building Code). Any future stormwater program erosion control measures that may be formally adopted by the Board of County Commissioners shall supersede YCC Title 13 erosion control requirements. Standards to meet YCC Title 13 requirements can be met by the application of the Best Management Practices (BMPs) in the ~~Eastern Washington~~ [Yakima Regional](#) [BG301](#) Stormwater Manual (WDOE Publication number 04-10-076) or equivalent manual adopted by Yakima County, or any other approved manual deemed appropriate by the Building Official, including but not limited to applicable Natural Resource Conservation Service (NRCS) Field Office Technical Guide (FOTG) BMP's and the Washington State Department of Transportation Highway Runoff Manual. Application of the Environmental Protection Agency (EPA) "Construction Rainfall Erosivity Waiver" is at the discretion of the Building Official on a case-by-case basis.
- (2) Landslide Hazard Areas - Protection measures for landslide hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (3) Alluvial Fan/Flash Flooding Hazard Areas - Protection measures for alluvial fan/flash flooding hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the

appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; Appendix J Grading; and, Flood Resistant Design and Construction (ASCE-24-98)).

- (4) Stream Undercutting Hazard Areas - Protection measures for stream undercutting hazard areas will be accomplished by Critical Areas review for flood hazards, streams, and Shoreline jurisdiction, in addition to implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (Flood Resistant Design and Construction (ASCE-24-98)).
- (5) Avalanche Hazard Areas - Protection measures for avalanche hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (6) Oversteepened Slope Hazard Areas - Protection measures for oversteepened slope hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (7) Earthquake/Seismic Hazard Area Protection Standards - Protection measures for earthquake/Seismic hazard areas will be accomplished by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- (8) Suspected Geologic Hazard Areas and Risk Unknown Hazard Areas - Protection measures for suspected geologic hazard areas and risk unknown hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

16C.08.04 Development Review Procedure for Geologically Hazardous Areas

- (1) The Administrative Official shall make a determination of hazard to confirm whether the development or its associated facilities (building site, access roads, limits of grading/ excavation/ filling, retaining walls, septic drainfields, landscaping, etc.):
 - (a) are located within a mapped geologically hazardous area;
 - (b) are within 500 feet of a mapped landslide hazard area;
 - (c) are abutting, or adjacent to any other mapped geologically hazardous area and may result in or contribute to an increase in hazard, or pose a risk to life and property on or off the site; [BG31]
 - (d) are located within a distance from the base of an adjacent landslide hazard area equal to the vertical relief that has been determined to be within the runout area [BG32] of said hazard area;
 - (e) are located within the potential run-out path of a mapped avalanche hazard.

- (2) Developments that receive an affirmative determination of hazard by the Administrative Official under (1) above, must conduct a geologic hazard report as provided in 16C.03.18(4) (Supplemental Report Requirements – Geologically Hazardous Areas), which may be part of a geo-technical report required under additional review below.
- (a) If the geologic hazard report determines no hazard exists or that the project area lies outside the hazard, then no Geologic Hazard review is needed.
 - (b) The Administrative Official is authorized to waive further geologic hazard review for oversteepened slope hazards on a determination that the hazards identified in the geologic hazard report will be adequately mitigated under grading or construction permits.
- (3) Developments that receive an affirmative determination of hazard, but do not meet the provisions of paragraph 2a or 2b above, must:
- (a) Obtain a Critical Areas Development Authorization under 16C.03 (Application and Review Procedures);
 - (b) Submit a geo-technical report that is suitable for obtaining the grading and construction permits that will be required for development. The geo-technical report should incorporate the submitted assessment, include the design of all facilities and include a description and analysis of the risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other critical areas, and;
 - (c) Be consistent with the General Protection Requirements of Section 16C.08.05 (General Protection Requirements).

16C.08.05 General Protection Requirements

- (1) Grading, construction, and development and their associated facilities shall not be located in a geologically hazardous area, or any associated setback for the project recommended by the geo-technical report, unless the applicant demonstrates that the development is structurally safe from the potential hazard, and that the development will not increase the hazard risk onsite or off-site.
- (2) Development shall be directed toward portions of parcels, or parcels under contiguous ownership, that are at the least risk of hazard in preference to lands with higher risk, unless determined to be infeasible in the geo-technical report.
- (3) The geo-technical report shall recommend methods to ensure the information and education about the hazard and any recommended buildable area for future landowners over the long term.
- (4) The applicable requirements of grading and construction permits for developments in hazardous areas must be included in the development proposal and geo-technical report.

3683 **Chapter 16C.09**

3684 **CRITICAL AQUIFER RECHARGE AREAS (CARAs)**

3685
3686 Sections:

- 3687 16C.09.01 Purpose and Intent
3688 16C.09.02 Designation
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3690 16C.09.04 Submittal Requirements
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3694

3695 **16C.09.01 Purpose and Intent**

- 3696 (1) The Growth Management Act (RCW 36.70A) requires local jurisdictions to protect, through
3697 designation and protection, areas with a critical recharging effect on aquifers used for potable
3698 water, or areas where a drinking aquifer is vulnerable to contamination that would affect the
3699 potability of the water. These areas are referred to as Critical Aquifer Recharge Areas
3700 (CARAs) in this title.
3701 (2) Potable water is an essential life sustaining element. Much of Yakima County's drinking water
3702 comes from groundwater supplies. Once groundwater is contaminated it can be difficult,
3703 costly, and sometimes impossible to clean up. In some cases, the quality of groundwater in an
3704 aquifer is inextricably linked to its recharge area.
3705 (3) The intent of this chapter is to:
3706 (a) Preserve, protect, and conserve Yakima County's CARAs from contamination;
3707 (b) Establish a protection approach that emphasizes the use of existing laws and regulations,
3708 and minimizes the use of new regulations.
3709 (4) It is not the intent of this ordinance to:
3710 (a) Regulate everyday activities (including the use of potentially hazardous substances that are
3711 used according to State and Federal regulations and according to label specifications);
3712 (b) Enforce or prevent illegal activities;
3713 (c) Regulate land uses that use or store small volumes of hazardous substances (including in-
3714 field agricultural chemical storage facilities, which do not require permits, or are already
3715 covered under existing state, federal, or county review processes and have detailed permit
3716 review);
3717 (d) Establish additional review for septic systems, which are regulated by the Washington
3718 Department of Health and Yakima County Health District as mandated by WAC 246-270,
3719 246-271, 246-272, 246-272A, 246-272B, 246-272C and 246-273;
3720 (e) Establish additional review for stormwater control, which are covered under existing
3721 County YCC Title 12.10 as required by Washington State Department of Ecology's Eastern
3722 Washington Phase II Municipal Stormwater Permit, or;
3723 (f) Require review for uses that do not need building permits and/or zoning review.
3724

3725 The above items are deemed to have small risks of CARA contamination or are beyond the
3726 development review system's ability to control.
3727
3728

16C.09.02 Designation

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs are designated as critical areas. CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. The following areas have been identified based on local conditions.

- (1) Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten-year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
- (2) Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.
- (3) Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.
- (4) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.
- (5) Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.
- (6) Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology.

16C.09.03 Mapping

- (1) **Mapping Methodology** – The CARAs are depicted in the map titled “Critical Aquifer Recharge Areas of Yakima County”. The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology - “Guidance Document” (<https://fortress.wa.gov/ecy/publications/SummaryPages/0510028.html>- Publication 05-10-028). This map depicts the general location of the critical aquifer recharge areas designated in YCC 16C.09.02. Yakima County has developed a GIS database of the CARA map that shows the location and extent of critical aquifer recharge areas. This database will be used by the County to determine whether proposed developments could potentially impact CARA. All applications for development within the County that are located within a mapped CARA will be required to follow the performance standards of this chapter. The CARA map estimates areas of moderate, high and extreme susceptibility to contamination, in addition to wellhead protection areas. To characterize hydrogeologic susceptibility of the recharge area to contamination, the GIS analysis used the following physical characteristics:

- (a) Depth to ground water;
- (b) Soil (texture, permeability, and contaminant attenuation properties);
- (c) Geologic material permeability;
- (d) Recharge (amount of water applied to the land surface, including precipitation and irrigation).

- (2) **Wellhead Protection Areas** - The CARA map includes those Wellhead Protection Areas for which the County has maps. Wellhead Protection Areas are required for all Class A public water systems in the State of Washington. The determination of a wellhead protection area is based upon the time of travel of a water particle from its source to the well. Water purveyors collect site specific information to determine the susceptibility of the water source to surface sources of contamination. Water sources are ranked by the Washington State Department of Health with a high, moderate or low susceptibility to surface contamination. Wellhead protection areas are defined by the boundaries of the ten (10) year time of ground water travel, in accordance with WAC 246-290-135. For purposes of this chapter, all wellhead protection areas shall be considered highly susceptible.

16C.09.04 Submittal Requirements.

- (1) Applications for any development activity or division of land which requires review by Yakima County and which is located within a mapped Critical Aquifer Recharge Area or Wellhead Protection Area shall be reviewed by the Administrative Official to determine whether hazardous materials (see definitions) will be used, stored, transported, or disposed of in connection with the proposed activity. If there is insufficient information to determine whether hazardous materials will be used, the Administrative Official may request additional information, in addition to the submittal requirements outlined in 16C.03.
- (2) The Administrative Official shall make the following determination:
 - (a) No hazardous materials are involved.
 - (b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance.
 - (c) Hazardous materials are involved and the proposal has the potential to significantly impact Critical Aquifer Recharge and Wellhead Protection Areas; however, sufficient information is not available to evaluate the potential impact of contamination. The County may require a Hydrogeologic Report to be prepared by a qualified groundwater scientist in order to determine the potential impacts of contamination on the aquifer.

16C.09.05 Performance Standards – General Requirements.

- (1) Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
- (2) The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Yakima County Health District.

16C.09.06 Performance Standards – Specific Uses.

- (1) **Storage Tanks.** All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
 - (a) **Underground Tanks.** All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - (i) Prevent releases due to corrosion or structural failure for the operational life of the tank;

- (ii) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
- (iii) Use material in the construction or lining of the tank that is compatible with the substance to be stored.
- (b) Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
- (i) Not allow the release of a hazardous substance to the ground, groundwaters, or surface waters;
- (ii) Have a primary containment area enclosing or underlying the tank or part thereof; and
- (iii) Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
- (2) Vehicle Repair and Servicing.
- (a) Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
- (b) No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity.
- (3) Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.
- (4) Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology and Health.
- (a) Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The State Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).
- (b) Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.
- (5) Proposed new groundwater uses must provide evidence that the proposed water source is physically and legally available and meets drinking water standards.

16C.09.07 Uses Prohibited from Critical Aquifer Recharge Areas.

The following activities and uses are prohibited in critical aquifer recharge areas:

- (1) Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste and inert and demolition waste landfills;
- (2) Underground Injection Wells. Class I, III and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
- (3) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
- (4) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;
- (5) Mining. Hard rock; and sand and gravel mining, unless located within the mineral resource designation; and

- |
- 3865 (6) Other Prohibited Uses or Activities.
3866 (a) Activities that would significantly reduce the recharge to aquifers currently or potentially
3867 used as a potable water source;
3868 (b) Activities that would significantly reduce the recharge to aquifers that are a source of
3869 significant base flow to a regulated stream.

PC Recommended Draft

Chapter 16C.11
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

16C.11.010 Purpose and Intent

- (1) Wildlife habitat conservation means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that ~~the habitat available is sufficient to support viable populations over the long term and~~ isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordinationed to help assure long term population viability. Wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs ~~land use planning is critically important~~ (WAC 365-190-130~~080~~(15)).
- (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 designate, protect, and conserve natural habitats of upland 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 protections measures described below.
- (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~~ Conservation of wildlife habitat is among the various goals for these public lands. Consequently, one of Yakima County's approaches to protecting all wildlife habitat types on public lands ~~[BG33]~~ 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~~will utilize current WDFW data and maps to identify ~~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. 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 from a qualified professional [BG34], 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. Where appropriate, agencies will be consulted early in the process to determine potential impacts from the development on wildlife habitat. [BG35] 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 and are designated as critical areas. 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

- 3961 listed Threatened, Endangered or Sensitive species means all species of wildlife listed as such
3962 by the United States Secretary of the Interior or Commerce.
- 3963 (2) Upland Wildlife Habitat Conservation Areas include State Natural Area Preserves and Natural
3964 Resource Conservation Areas.
- 3965 (3) Upland Wildlife Habitat Conservation Areas include Species and Habitats of Local
3966 Importance. These are habitats or species that due to their declining population, sensitivity to
3967 habitat manipulation or other values make them important on a local level. Habitats of Local
3968 Importance may include a seasonal range or habitat element with which a given species has a
3969 primary association, and which, if altered, may reduce the likelihood that the species will
3970 maintain and reproduce over the long term.
- 3971 (a) Species and Habitats of Local Importance may be identified, for protection under this title.
3972 State or local agencies, individuals or organizations may identify and nominate for
3973 consideration specific species and habitats, or a general habitat type, including streams,
3974 ponds or other features. The WDFW Priority Habitat and Species list for Yakima County
3975 shall be included as a baseline for this list, to be added to be other organizations is included
3976 in this Title as Appendix B [BG36].
- 3977 (b) Review of a Species and/or Habitat of Local Importance application is a legislative action,
3978 and shall be processed during the Comprehensive Plan amendment cycle.
- 3979 (c) Species and/or Habitat of Local Importance applications shall be docketed for official
3980 action with the Planning Commission in accordance with Section 16B.10.090
3981 (Development Regulation Amendments) with no fee requirements.
- 3982 (d) The Planning Commission may convene a best available science committee to ensure the
3983 Species and/or Habitat of Local Importance application conforms to RCW 36.70A.172 and
3984 WAC 365-195-900 through WAC 365-195-925.
- 3985 (e) Species and/or Habitat of Local Importance ~~shall be~~ adopted as a Appendix B ~~of~~ ies to
3986 this title.
- 3987 (f) Species and/or Habitat of Local Importance applications shall be reviewed for conformance
3988 with subsections (g) and (h) below.
- 3989 (g) Applicants for Species and/or Habitat of Local Importance shall present evidence
3990 concerning the criteria set forth in sub-section (h) below, including maps to illustrate the
3991 proposal and habitat management recommendations for use in the administration of this
3992 chapter, and/or:
- 3993 (h) The review of nominated habitats, and habitats for species of local importance shall
3994 consider the following,
- 3995 (i) A seasonal range or habitat element which, if altered, may reduce the likelihood that
3996 the species will maintain or reproduce over the long term;
- 3997 (ii) Areas of high relative density or species richness, breeding habitat, winter range, and
3998 movement corridors;
- 3999 (iii) Habitat with limited availability or high vulnerability to alteration;
- 4000 (iv) Whether these habitats are already identified and protected under the provisions of this
4001 or other county ordinances or state or federal law.

4002 4003 **16C.11.050 Mapping**

- 4004 (1) The approximate location and extent of upland wildlife habitat conservation areas for,
4005 Endangered, Threatened and Sensitive species are shown on the County's critical area map
4006 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 an initial [BG37] reference and does not provide a final critical area designation. Wildlife resource agencies shall be consulted for their expertise on location of habitat conservation areas when insufficient information exists for an area. [BG38]

- (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 help [BG39] 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~~ shall 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 management recommendations published by federal, or state agencies, or local management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been [BG40] 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 a 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.

PC Recommended Draft

YAKIMA COUNTY
CRITICAL AREAS ORDINANCE
Appendix A
Designated Type 2 Stream Corridors

The following stream reaches within Yakima County are designated Type-2 Streams under the Critical Areas Ordinance.

FOUNDATION CREEK:	From the mouth of Hacket Canyon (Sec. 13, T12N, R14E) downstream to the North Fork Ahtanum Creek.
LITTLE RATTLESNAKE CREEK:	From the Wenatchee National Forest boundary (Sec. 25-T15N-R15E) downstream to mouth at Rattlesnake Creek (Sec. 3-T15N-R15N).
MIDDLE FORK AHTANUM CREEK:	From the north boundary of Sec, 25, T12N, R14E, downstream to the North Fork Ahtanum.
MULE DRY CREEK:	From the east boundary of Sec. 24, T9N, R20E, downstream to Satus Creek.
NASTY CREEK:	From the east boundary of Sec. 32, T13N, R15E, downstream to the North Fork Ahtanum Creek.
NILE CREEK:	From the east boundary of Sec. 31, T16N, R15E, downstream to the Naches River.
NORTH FORK AHTANUM CREEK:	From east boundary of Sec. 20, T12N, R14E, downstream to shoreline jurisdiction (Sec. 22, T12N, R14E).
REYNOLDS CREEK:	From the east boundary of Sec. 16, T13N, R15E, to South Fork Cowiche Creek (Sec. 18, T13N, R16E).
ROCK CREEK:	From the south boundary of Sec. 8, T16N, R15E, downstream to the Naches River.
SOUTH FORK COWICHE CREEK:	From the north boundary of Sec. 29, T13N, R15E, downstream to shoreline jurisdiction (Sec. 33, T14N, R16E).

4111 SOUTH FORK AHTANUM CREEK: From the east boundary of Sec. 32, T12N,
4112 R15E, downstream to shoreline jurisdiction
4113 (the NE 1/4 of the NW 1/4 of Sec. 26,
4114 T12N, R15E).
4115
4116
4117 WENAS CREEK: From ~~North Wenas Road~~ the base of the
4118 Wenas Dam ~~(Sec. 132-T154N-~~
4119 ~~R18E R17E T14N R18E)~~ downstream to
4120 shoreline jurisdiction of the Yakima River.
4121
4122 WIDE HOLLOW CREEK: From South 96th Ave. downstream to the
4123 municipal boundary for the City of Yakima
4124 (Sec. 34-T13N-R18E).
4125
4126 WILDCAT CREEK: From the Wenatchee National Forest
4127 boundary (Sec. 25, T14N, R13E)
4128 downstream to the Tieton River.
4129

YAKIMA COUNTY
CRITICAL AREAS ORDINANCE
Appendix B
Priority Habitat and Species (PHS) [BG41]

**** Important Note ****

These are the species and habitats identified for Yakima County. This list of species and habitats was developed using the distribution maps found in the Priority Habitat and Species (PHS) List (see <http://wdfw.wa.gov/conservation/phs/>). Species distribution maps depict counties where each priority species is known to occur as well as other counties where habitat primarily associated with the species exists. Two assumptions were made when developing distribution maps for each species:

1. There is a high likelihood a species is present in a county, even if it has not been directly observed, if the habitat with which it is primarily associated exists.
2. Over time, species can naturally change their distribution and move to new counties where usable habitat exists.

Distribution maps in the PHS List were developed using the best information available. As new information becomes available, known distribution for some species may expand or contract. WDFW will periodically review and update the distribution maps in PHS list.

<u>Priority Habitats</u>	
<u>Habitat</u>	<u>Priority Area</u>
<u>Aspen Stands</u>	<u>Pure or mixed stands greater than 1 acre</u>
<u>Biodiversity Areas & Corridors</u>	-
<u>Inland Dunes</u>	-
<u>Old-Growth/Mature Forest</u>	-
<u>Oregon White Oak Woodlands</u>	<u>Stands greater than 5 acres in size</u>
<u>Shrub-Steppe</u>	-
<u>Riparian</u>	-
<u>Freshwater Wetlands & Fresh Deepwater</u>	-
<u>Instream</u>	-
<u>Priority Habitat Features</u>	
<u>Habitat</u>	<u>Priority Area</u>
<u>Caves</u>	-
<u>Cliffs</u>	<u>Greater than 25 feet high and occurring below 5000 ft.</u>
<u>Snags and Logs</u>	-
<u>Talus</u>	-

<u>Fish</u>			
<u>Species</u>	<u>Priority Area</u>	<u>State Status</u>	<u>Federal Status</u>

Pacific Lamprey	Any Occurrence	-	Species of Concern
River Lamprey	Any Occurrence	Candidate	Species of Concern
White Sturgeon	Any Occurrence	-	-
Leopard Dace	Any Occurrence	Candidate	-
Umatilla Dace	Any Occurrence	Candidate	-
Mountain Sucker	Any Occurrence	Candidate	-
Bull Trout	Any Occurrence	Candidate	Threatened
Chinook Salmon	Any Occurrence	-	-
Coho	Any Occurrence	-	-
Kokanee	Any Occurrence	-	-
Rainbow Trout/ Steelhead	Any Occurrence	Candidate *	Threatened *
Sockeye Salmon	Any Occurrence	-	-
Westslope Cutthroat	Any Occurrence	-	-
		* Steelhead only	* Steelhead only

Reptiles and Amphibians			
Species	Priority Area	State Status	Federal Status
Cascade Torrent Salamander	Any occurrence	Candidate	-
Larch Mountain Salamander	Any occurrence	Sensitive	Species of Concern
Van Dyke's Salamander	Any occurrence	Candidate	Species of Concern
Columbia Spotted Frog	Any occurrence	Candidate	-
Western Toad	Any occurrence	Candidate	Species of Concern
Common Sharp-tailed Snake	Any occurrence	Candidate	Species of Concern
Striped Whipsnake	Any occurrence	Candidate	-
Sagebrush Lizard	Any occurrence	Candidate	Species of Concern

Birds			
Species	Priority Area	State Status	Federal Status
Western grebe	Regular concentrations, Breeding areas, Migratory stopovers, Regular occurrences in winter	Candidate	-
E WA breeding concentrations of: Grebes, Cormorants	Breeding areas	-	-

E WA breeding: Terns	Breeding areas	-	-
Black-crowned Night-heron	Breeding areas	-	-
Great Blue Heron	Breeding areas	-	-
Cavity-nesting ducks: Wood Duck, Barrow's Goldeneye, Common Goldeneye, Bufflehead, Hooded Merganser	Breeding areas	-	-
Harlequin Duck	Breeding areas	-	-
Tundra Swan	Regular concentrations	-	-
Waterfowl Concentrations	Significant breeding areas, Regular concentrations in winter	-	-
Bald Eagle	Breeding areas, Communal roosts, Regular concentrations	Sensitive	Species of Concern
Ferruginous Hawk	Breeding areas, including alternate nest sites. If breeding area is not known, approximate with a 7.0 km² (4.35 mi²) area around known nest sites, foraging areas	Threatened	Species of Concern
Golden Eagle	Breeding and foraging areas	Candidate	-
Northern Goshawk	Breeding areas, including alternate nest sites, post-fledging foraging areas	Candidate	Species of Concern
Peregrine Falcon	Breeding areas, Regular occurrence	Sensitive	Species of Concern
Prairie Falcon	Breeding areas	-	-
Chukar	Regular concentrations in WDFW primary	-	-

	management zones for Chukar		
Ring-necked Pheasant	Self-sustaining birds observed in regular concentrations in WDFW's eastern Washington Primary Management Zone for pheasant	-	-
Sage Grouse	Breeding areas, leks, Regular concentrations	Threatened	Candidate
Sooty Grouse	Breeding areas, Regular concentrations	-	-
Wild Turkey	Regular concentrations and roosts in WDFW's Primary Management Zones for wild turkeys	-	-
Sandhill Crane	Breeding areas, Regular concentrations, migration staging areas	Endangered	-
E WA breeding occurrences of: Phalaropes, Stilts and Avocets	Breeding areas	-	-
Band-tailed Pigeon	Regular concentrations, Occupied mineral sites	-	-
Yellow-billed Cuckoo	Any occurrence	Candidate	Candidate
Burrowing Owl	Breeding areas, foraging areas, Regular concentrations	candidate	Species of Concern
Flammulated Owl	Breeding sites, Regular occurrences	Candidate	-
Spotted Owl	Any occurrence	Endangered	Threatened

Vaux's Swift	Breeding areas, Communal roosts	Candidate	-
Black-backed Woodpecker	Breeding areas, Regular occurrences	Candidate	-
Lewis' Woodpecker	Breeding areas	Candidate	-
Pileated Woodpecker	Breeding areas	Candidate	-
White-headed Woodpecker	Breeding sites, Regular occurrences	Candidate	-
Loggerhead Shrike	Regular occurrences in breeding areas, Regular concentrations	Candidate	-
Sage Sparrow	Breeding areas, Regular occurrences in suitable habitat during the breeding season	Candidate	-
Sage Thrasher	Breeding areas, Regular occurrences in suitable habitat during the breeding season	Candidate	-

Mammals			
Species	Priority Area	State Status	Federal Status
Merriam's Shrew	Any occurrence	Candidate	-
Preble's Shrew	Any occurrence	Candidate	Species of Concern
Roosting Concentrations of: Big-brown Bat, Myotis bats, Pallid Bat	Regular concentrations in naturally occurring breeding areas and other communal roosts	-	-
Townsend's Big-eared Bat	Any occurrence	Candidate	Species of Concern
Black-tailed Jackrabbit	Regular concentrations	Candidate	-
White-tailed Jackrabbit	Regular concentrations	Candidate	-

Western Gray Squirrel	Any occurrence	Threatened	Species of Concern
Townsend's Ground Squirrel	Breeding Area, Occurrence, Regular concentrations	Candidate	Species of Concern
Cascade Red Fox	Any occurrence	Candidate	-
Fisher	Any occurrence	Endangered	Candidate
Marten	Regular occurrence	-	-
Wolverine	Any occurrence	Candidate	-
Bighorn Sheep	Breeding areas, Regular concentrations	-	-
Columbian Black-tailed Deer	Regular concentrations, Migration corridors	-	-
Mountain Goat	Breeding areas, Regular concentrations	-	-
Northwest White-tailed Deer	Migration corridors, Regular concentrations in winter	-	-
Elk	Calving Areas, Migration Corridors, Regular concentrations in Winter and in foraging areas along coastal waters	-	-
Rocky Mountain Mule Deer	Breeding areas, Migration corridors, Regular concentrations in winter	-	-

Invertebrates			
Species	Priority Area	State Status	Federal Status
Mardon Skipper	Any occurrence	Endangered	Species of Concern
Silver-bordered Fritillary	Any occurrence	Candidate	-

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Exhibit B: *Comments and responses to written record submitted at the April 12, 2017 PC
CAO Hearing.*

Comments and responses to the written record submitted at the April 12, 2017 PC CAO Hearing

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
Yakima County Water Resources					
		16C.02.325 Definition of Restore	Restoration as defined in the CAO cannot circumvent existing BOCC agreements and adopted plans, with State or Federal Agencies.	Accept recommended change. Include language that refers to RCW 86.12 that identifies county flood authorities and ability to make river improvement necessary to alleviate flood risk, that may not allow for certain restoration activities and methods.	
WA Dept. of Ecology					
		16C.02.135: Development	The Hearing Draft CAO removes land divisions as being included in the definition of "development". Where will review under the CAO occur in the County process to keep applicants from creating "non-buildable lots" or lots which will not need variances from buffer requirements? There should be a clear process within the CAO document which requires that land divisions be reviewed for the presence of critical areas.	Accept recommended edits.	
		16C.06.11(5)	New language is being inserted to use the Yakima Regional Stormwater Manual instead of the Eastern Washington Stormwater Manual- does the Yakima Regional Stormwater Manual include protection of wetlands from storm water inputs as the Eastern Washington Stormwater Manual does?	Staff response: Yes, the Yakima Regional manual has the equivalent wetland protection standards as the Eastern Washington manual.	
		16C.07.02(1)(a)	Additional language should be added which describes when a wetland associated with a drainage ditch or	Discuss this issue at deliberations. Wetlands associated with irrigation are	PC: Ashley motion to accept staff recommendation, Nancy seconds, 4 to 0.

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			other waterway which carries irrigation return flows and natural run-off waters should be considered 'jurisdictional' under the Critical Area Ordinance. If the ditch or channel conveys or intercepts waters in a floodplain or groundwater from regional precipitation or regional application of irrigation waters, and if the area meets the criteria for being a biological wetland, then the ditch or channel should be considered jurisdictional under the CAO. <u>Please see the attached Ecology FOCUS sheet on irrigation and wetlands.</u>	treated as artificial wetlands. If said artificial wetland does have some natural run-off or groundwater influences, it would be difficult to determine which water feature is the determining factor in the wetlands creation.	
		16C.07.05(2) Mitigation	The draft refers to Volume 2, Appendix 80, but the link is broken. Please assure that the document refers to the 2014 modified Appendix 8-0 http://www.ecy.wa.gov/programs/sea/wetlands/pcW2014Appendix80.pdf .	Accept recommended change. Staff will verify webpage.	
		Table 6-2, top of page 73, refers to wetland buffers.	The buffers do not take in to account habitat scores or land use intensities, but the County uses a "one size fits all" buffer system. Individual landowners with low impact development proposals might benefit from the use of a buffer system which takes these items into account. Examples of a two or three-tiered system are given in Ecology's Appendix 80 Guidance on Widths of Buffers and Ratios for Compensatory Mitigation document (see link in above comment.)	Deny recommended change. Staff justification: Yakima County believes the current wetland buffer widths provide appropriate protection and that the WDOE wetland BAS places an undue burden on property owners while providing limited to no measurable benefit.	PC Recommendation: Nancy motion to accept staff's recommended "no" change. John seconds. Vote 4 to 0.
Yakama Nation					
		16C.01.03, page 2.	Insert "Designate" prior to "[p]rotect" in subsection (1) consistent with RCW 36.70A.170.	Accept recommended change.	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
		16C.01.05 Applicability.	Page 4, subsection (1)(a). These are all effective dates, so the proposed edit is unnecessary. This section should also be revised to acknowledge the 2007 and 2016 updates.	Accept recommended change.	
		16C.02.245, page 13.	Frequently Flooded Areas. The YN DNR supports the inclusion of a definition of “Frequently Flooded Areas”, however, the proposed definition is inconsistent with the designation 16C.06.03 subsections (1) and (5). It is recommended that the definitions and designations be consistent, and to include channel migration zone from 16C.02.090 , and flood-prone in 16C.02.215 . Floodplains are designated as both Frequently Flood Areas (FFA), Hydrologically Related Critical Areas (HRCA), and to some degree as Geologically Hazardous Areas.	Accept recommended change.	
		16C.03.01(4), page 23.	Previous staff edits proposed the deletion of “shall run with the land”. It is recommended that “shall run with the land” be kept with the proposed new language.	Accept recommended change.	
		16C.03.02(3)(c)(ii), page 24.	YN DNR is opposed to the size threshold proposed for the waiver of the requirement for a critical areas report. The size of the proposed development or use should not have any bearing on the necessity of a report. A small project put in the wrong location can be much more detrimental to critical areas than a large project put in a beneficial location. YN DNR questions whether Yakima County has any BAS to support this provision. If no BAS exists to support, then the provision	Accept recommended change. Staff Change: Deleted the size threshold and kept the original text. Yakima County will continue to regulate based on the original intent of the original language.	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			should be removed; if a project is in a critical area, and there is no established BAS mitigation, then a report should be required.		
		16C.03.05(1)(b), page 26.	The YN DNR does not support the inclusion of levee repair as an activity that does not require a permit. Levee repair does not fit into the intent of this section. YN DNR is concerned that the opportunity to enhance aquatic resources is lost if no permit with public notice is required; especially where bio-engineering techniques could be incorporated into the levee repair, so that flood protection is maintained, and aquatic resources are improved. The Yakima County FCZD has the authority to conduct levee repair under an emergency declaration by the County Commissioners, as was done this year, so the requirement to get a permit does not affect emergencies.	Deny recommended change. Staff Justification: One of the major components of the CAO is flooding. Levees are specifically designed to protect property, infrastructure and people from the potential impacts associated from flooding. "Bio-engineering" may not be acceptable to certain levee construction designs and should not be assumed appropriate for all levee maintenance situations. However, any major levee maintenance that results in fill or grading of excess of 500 cubic yards will (may) require SEPA review(?), which will provide adequate "public notice" to interested agencies.	PC recommendation: Ashley make motion to accept staff recommendation. Second Nancy, approved vote 4 to 0,
		16C.03.05(h), page 27.	Is the agricultural waiver appropriate now that there is the Voluntary Stewardship Program?	Staff Response: Yes, it's needed, the VSP work plan has not been accepted by the Washington State Conservation Commission (WSCC).	PC recommendation: NANCY motion to agree with staff's response to keep ag waiver. Second by Ashley. Vote 4 to 0 in favor.
		16C.03.05 page 27.	YN DNR requests a new minor activity allowed without a permit for habitat restoration projects that do not include excavation or fill. The restoration of critical areas should not	Accept recommended change.	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			require a CAO permit, consistent with the Shoreline Master Program.		
		16C.03.17(13), page 32.	The list of critical areas that may require mitigation planning is inconsistent with Chapter 16C.06, 16C.07, and 16C.11; correct the list to be consistent.	Accept recommended change.	
		16C.06.02 Protection Approach, page 63.	WDFW has developed new science that is not reflected in the draft CAO. The GAP analysis developed for the 2007 CAO update is obsolete. Yakima County has failed to adequately protect Upland Wildlife Habitat, including areas with which Threatened, Endangered and Sensitive species have a primary association, especially shrub-steppe habitat. Yakima County must strengthen the application of the CAO protection standards, based on the BAS, so that no more habitat or species are negatively impacted. Yakima County has failed to adequately protect Upland Wildlife Habitat by not consistently requiring a critical areas ID form and site plan and habitat assessment to identify and protect habitats and species. All developments in habitat areas should require review, which includes consultation with resource agencies, including the YN DNR. YN DNR supports the WDFW proposed fish and wildlife habitat checklist. It is recommended that Yakima County work more closely with the WDFW to successfully incorporate the BAS and strengthen CAO protections. The following documents are hereby incorporated by reference into the record for inclusion:	Deny recommended change. Staff justification: Yakima County disagrees with YN DNR that “all development” fill out the ID form and consult with resource agencies prior to development. The existing CAO was adopted by the BOCC with the intent that most development not requiring public notice (i.e. Type 1’s, Non-SEPA, and most building permits on individual lots of record) do not pose a significant risk to wildlife habitat and therefore do not require County critical area review.	PC recommendation: Ashley motion accept staff’s recommendation. Nancy seconds. Vote 4 to 0 in favor.

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			<ul style="list-style-type: none"> Washington Department of Fish and Wildlife. 2015. Washington's State. Wildlife Action Plan: 2015 Update. Washington Department of Fish and Wildlife, Olympia, Washington, USA. Stinson, D. W. 2016. Periodic status review for the Greater Sage-grouse in Washington. Washington Department of Fish and Wildlife, Olympia, Washington. 25+ iii pp. 		
		16C.06.03(5), page 65.	The designation of flood-prone here is inconsistent with the definition in 16C.02.215. The definition on 16C.02.215 is preferred over the designation here.	Accept recommended change.	
		16C.06.08, page 67. Maps.	<ul style="list-style-type: none"> Subsection (2)(c) lists channel migration zone (CMZ), yet there are no standards to protect developments or uses from the CMZ. The CAO must include provisions to protect developments or uses from the CMZ from both an ecological and a life-and-safety perspective. It is recommended to include WDFW Priority Habitats and Species (PHS), and Wildlife Action Plan maps into 16C.06.08(2). The draft CAO now includes the PHS lists in Appendix B, but it is unclear how those are to be used in the CAO. All of the CAO maps need to be available to the public for review. The Yakima County Geographic Information System (GIS) online portal only has floodplains, streams, shoreline jurisdiction and 	<ul style="list-style-type: none"> The Channel Migration Zone (CMZ) is considered a frequently flooded area, which is addressed in detail in the CAO under 16C.05. Accept recommended change. Accept recommended change. 	<ul style="list-style-type: none">

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			wetlands available, this is a disservice to Yakima County citizens looking for critical areas information.		
		16C.06.11 General Policies and Standards, page 69.	Both subsection (2) and (3) on page 69 contain the clarifier “to the minimum extent possible”. It is recommended that this language be deleted and replaced with a reference to Mitigation Sequencing in 16C.03.10. All proposals are required to adhere to the mitigation sequencing requirements, and the clarifier “to the minimum extent possible” is inconsistent with that requirement.	Accept recommended change.	
		Section 16C.06.11(18), page 70.	This is in the only General Policies and Standards section of the CAO chapter on Fish and Wildlife Habitat and the Stream Corridor System, which addresses cultural and archaeological resources; and it only offers a minimal “stop work” protection. This lack of consideration of and protection for cultural resources in the CAO is inconsistent with the County’s current Comprehensive Plan, which sets forth County goals and policies to identify and protect cultural and archaeological resources within the county, and to specifically work with the Yakama Nation to develop processes to do so (<i>See e.g. Yakima County 2015 Comprehensive Plan §§ NS 4, NS 4.1, NS 4.2, NS 7.44-47.</i>). The Yakama Nation requests that the County consult with the Yakama Nation, consistent with the Comprehensive Plan policy, to develop appropriate cultural resources provisions.	Accept recommended change: (1) Staff added new language to subsection 18 that states: <u>Yakima County will utilize the Washington State Department of Archaeology and Historic Preservation’s (DAHP) archaeological and historic database to determine if prospective land use permits may impact archaeological or cultural resources. As part of permit review, if the property is within 500’ of an identified archaeological or cultural resource site, applicants will be required to consult with both the Confederated Tribes and</u>	PC Recommendation: See CWHBA comments. No to staff changes.

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
				<p><u>Bands of the Yakama Nation (Yakama Nation) and DAHP to determine if their project has any potential impacts to those resources. On project permits beyond 500' of an identified archaeological or cultural resource site, Yakima County will notify the Yakama Nation on projects that require notification, as well as DAHP through the SEPA register.</u></p> <p>If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify Yakima County, the Washington State Office of Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).</p>	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			CWHBA comments. Do not include new proposed Cultural Resource language in CAO.	Staff	PC Recommendation: Ashley motion not to accept staff recommended changes. Nancy seconds but to have BOCC review CWHBA comments. Vote 4 to 0 in favor of motion not to accept staff edits.
		Table 6-1, page 72 Stream Buffers.	Yakima County's standard widths for stream buffers as listed in Table 6-1 of the CAO are significantly narrower than what BAS recommends, particularly for Type 3 and 4 streams. WDFW is currently updating the buffer guidance measurements for Volume 2 of the PHS riparian guidelines. Until those are finalized, the current (1997) version still represents BAS. By applying CAO protections to only the inner portion of riparian ecosystems, Yakima County stands to allow significant loss of riparian functions. YN DNR strongly recommend the County adopt standard stream buffers that manage and protect the entire riparian ecosystem and are consistent with BAS recommendations. Furthermore, the buffers in Table 6-1 create significant risk that riparian ecosystem functions will be lost and that salmonids and other aquatic resources will experience reductions in habitat quality and quantity. YN DNR strongly recommends that the county implement a robust monitoring and adaptive management program to ascertain if the buffers and other measures in the CAO are providing no net loss of riparian ecosystem	Deny recommended change. Staff justification: The stream buffers that were adopted in the CAO as part of the 2007 update were appealed to the Growth Management Hearings Board (case no. 08-1-0008c) for which Yakima County was found non-compliant with GMA. After repeated meetings and negotiations Yakima County adopted Ord. 4-2013 addressing stream buffer widths, for which Yakama Nation provided a letter ¹ to the Hearings Board stating, "The Yakama Nation respectfully recommends that the Board make a finding of compliance with the GMA" in regards to Yakima County's stream buffer edits. Yakima County contends that the current stream buffer widths are adequate and do not need to be increased.	PC Recommendation: Nancy moves to accept staff recommended no change. John Crawford seconds. Vote 4 to 0.

¹ Letter dated October 1st, 2013 from Thomas Zeilman Attorney for Petitioner Yakama Nation to the Eastern Washington Growth Management Hearings Board regarding case number 08-1-0008c.

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			<p>function. The YN DNR supports the WDFW recommendation that buffers extend to the full extent of the floodplain, consistent with the BAS. The following BAS is hereby incorporated by reference into the record.</p> <ul style="list-style-type: none"> ▪ <i>Knutson and Naef, 1997, Management Recommendations for Washington's Priority Habitats: Riparian, Washington Department of Fish and Wildlife, Olympia</i> 		
		Table 6-2, page 73 Wetland Buffers	<ul style="list-style-type: none"> ○ The draft CAO proposes to update the wetland rating system in Section 16C.07.04(2), and the Compensatory Mitigation Requirements in Section 16C.07.05, based on new BAS, but is not proposing any updates to the buffers associated with the updated rating, thereby ignoring new BAS. The buffers in Table 6-2 are inconsistent with the BAS. The Washington Department of Ecology (WDOE) released an update on the wetland BAS in 2013, and subsequently updated the rating system in 2014. WDOE then modified the appendix in the Wetland BAS Vol. 2 to apply to the updated rating system. ○ The updated WDOE wetland BAS states: <ul style="list-style-type: none"> ▪ “Key point #1: page 5-51. Many researchers have recommended using four basic criteria to determine the width of a buffer: <ul style="list-style-type: none"> □ the functions and values of the aquatic resource to be protected by the buffer 	<p>Deny recommended change.</p> <p>Staff justification: Yakima County believes the current wetland buffer widths provide appropriate protection and that the WDOE wetland BAS places an undue burden on property owners while providing limited to no measurable benefit.</p> <p>Previously addressed. Refer to page 2 of the comment sheet.</p>	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			<p><input type="checkbox"/> the characteristics of the buffer itself and of the watershed contributing to the aquatic resource</p> <p><input type="checkbox"/> the intensity of the adjacent land use (or proposed land use) and the expected impacts that result from that land use</p> <p><input type="checkbox"/> the specific functions that the buffer is supposed to provide, including the targeted species to be managed and an understanding of their habitat needs.”, page 29</p> <p>▪ “Key point #2: page 5-51. Protecting wildlife habitat functions of wetlands generally requires larger buffers than protecting water quality functions of wetlands.” page 29</p> <p>▪ “Key point #3: page 5-51. Effective buffer widths should be based on the above factors. They generally should range from:</p> <p><input type="checkbox"/> 25 to 75 feet (8 to 23 m) for wetlands with minimal habitat functions and low-intensity land uses adjacent to the wetland</p> <p><input type="checkbox"/> 75 to 150 feet (15 to 46 m) for wetlands with moderate habitat functions and moderate or high-intensity land uses adjacent to the wetland</p> <p>• 150 to 300+ feet (46 to 92+ m) for wetlands with high habitat functions, regardless of the intensity of the land uses adjacent to the wetland.” page 29</p> <p>▪ “Key point #4: page 5-51. Fixed-width buffers may not adequately address the issues of habitat fragmentation and population</p>		

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			<p><i>dynamics. Several researchers have recommended a more flexible approach that allows buffer widths to be varied depending on site-specific conditions", page 30.</i></p> <ul style="list-style-type: none"> ▪ The wetland buffers must incorporate new BAS. It is recommended that the entirety of Appendix 8-D of WDOE's Wetland BAS Vol. 2 be adopted as the new wetland buffer system. Appendix 8-D of the Wetland BAS Vol. 2 gives landowners options, and protects the functions and values of wetlands. The following BAS is hereby incorporated by reference into the record. □ <i>Hruby, T. (2014). Washington State Wetland Rating System for Eastern Washington: 2014 Update. (Publication #14-06-030). Olympia, WA: Washington Department of Ecology.</i> □ <i>Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1). Washington State Department of Ecology Publication #06-06-011b.</i> □ <i>Hruby, T. 2013. Update on Wetland Buffers: The State of the Science, Final Report, October 2013. Washington State Department of Ecology Publication #13-06-11</i> □ <i>Granger, T., T. Hruby, A. McMillan, D. Peters, J. Rubey, D.</i> 		

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			<i>Sheldon, S. Stanley, E. Stockdale. April 2005. Wetlands in Washington State- Volume 2: Guidance for Protecting and Managing Wetlands. Washington State Department of Ecology. Publication #05-06-008. Olympia, WA.</i>		
		16C.06.17 Roads, Railroads and Parking	<ul style="list-style-type: none"> ○ All water crossing proposals should follow WDFW guidelines in: <ul style="list-style-type: none"> ▪ <i>Barnard, R. J., J. Johnson, P. Brooks, K. M. Bates, B. Heiner, J. P. Klavas, D.C. Ponder, P.D. Smith, and P. D. Powers (2013), Water Crossings Design Guidelines, Washington Department of Fish and Wildlife, Olympia, Washington.</i> ○ YN DNR supports the new language in subsection (8), to include fish potential, but the comparable source of “expertise” should be changed to BAS. 	<p>Deny requested edits.</p> <p>Staff justification: WDFW approves water crossings. They can condition the approval according to their own guidelines.</p> <p>Staff concurs with BAS,</p>	PC recommendation: Ashley makes a motion to accept staff’s recommendation except to delete the last portion of the sentence pertaining to expertise
		16C.06.19 Shore Stabilization	<ul style="list-style-type: none"> ○ All shore stabilization project should follow the <i>Washington State Aquatic Habitat Guidelines Program. 2002. Integrated Streambank protection Guidelines (ISPG).</i> http://wdfw.wa.gov/publications/00046/ ○ Subsection (4) on page 75 is confusing. How does one use fill to restore lost land, but avoid going past the new OHWM? It is recommended that this provision be removed, and that all stabilization projects follow the ISPG. 	<ul style="list-style-type: none"> ○ Accept suggested edits. <p>Staff made the text edits to make the language more clear. Will provide example if necessary.</p>	
		16C.06.21 Filling, page 76.	Subsection (9) requires edits. Fill in a HRCA provides negative affects to functional properties in 16C.06.05, and should be prohibited. Therefore all proposals should be required to	Staff agrees with the intent behind this comment, but if fill cannot be located on-site another alternative must sought. Staff recommends	PC Recommendation: Nancy moves to change unsuitable to substandard and then accept the changes. John Crawford moves to second. Vote 5 to 0.

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			acquire fill on-site, not just make an effort.	text change to state that onsite fill must be used unless substandard for proposed project then offsite fill may be used.	
		16C.06.23 Reclamation, page 77.	Subsection (7) requires edits. Non-native species provide negative affects to functional properties in 16C.06.05, and should be prohibited in a HRCA. Therefore the allowance for non-native should be deleted.	Staff accepted change in PC hearing draft.	
		16C.07.04 Wetland Functions and Rating, page 79.	See comments on Table 6-2 above. YN DNR supports the update of the wetland ratings system, consistent with the BAS.	Addressed previously.	
		16C.07.04 Compensatory Mitigation Requirements, page 81.	See comments on Table 6-2 above. YN DNR supports the update of the wetland compensatory mitigation requirements, consistent with the BAS.	Addressed previously.	
		Chapter 16C.08 Geologically Hazardous Areas.	Yakima County has data on Channel Migration Zones (CMZ) within CAO jurisdiction, yet there are no provisions to protect developments from such geologic hazards. It is recommended that the CAO be updated to designate CMZ and protect landowners from such hazards. A logical place to insert CMZ provisions would be to include them in the section for stream undercutting.	Deny requested edit. CMZ's are addressed under frequently flooded areas Chapter 16C.05, 16C.08.05(4) and the SMP.	PC Recommendation: Nancy moves to accept staff's comments as listed. Ashley seconds motion. Vote 5 to 0.
		Chapter 16C.11 Upland Wildlife Habitat Conservation Areas	Yakima County has failed to adequately protect Upland Wildlife Habitat, including areas with which Threatened, Endangered and Sensitive species have a primary association, especially shrub-steppe habitat. Yakima County must strengthen the application of the CAO protection	Deny recommended change. Staff justification: Yakima County disagrees with YN DNR that "all development" fill out the ID form and consult with resource agencies prior to	PC Recommendation: See earlier discussion and motion regarding ID form.

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			standards, based on the BAS, so that no more habitat or species are negatively impacted. Yakima County has failed to adequately protect Upland Wildlife Habitat by not consistently requiring a critical areas ID form and site plan and habitat assessment to identify and protect habitats and species. All developments in habitat areas should require review, which includes consultation with resource agencies, including the YN DNR. YN DNR supports the WDFW proposed fish and wildlife habitat checklist. It is recommended that Yakima County work more closely with the WDFW to successfully incorporate the BAS and strengthen CAO protections.	development. The existing CAO was adopted by the BOCC with the intent that most development not requiring public notice (i.e. Type 1's, Non-SEPA, and most building permits on individual lots of record) do not pose a significant risk to wildlife habitat and therefore do not require County critical area review.	
		16C.11.010(3), page 92.	Insert "designate" prior to "protect" consistent with RCW 36.70A.170.	Accept recommended change.	
		16C.11.020 (3), page 93.	The GAP analysis performed for the 2007 CAO update is obsolete. Yakima County is required to include the latest BAS from WDFW.	Accept recommended change. Made necessary text change to CAO and will obtain the latest available mapping from WDFW.	
		16C.11.020 (3), page 93.	The existing CAO states: " <i>Yakima County's approach to protect habitat for listed state and federal threatened, endangered, and sensitive upland species is to require [emphasis added] approval of a standard development permit, the submittal of a habitat assessment from a qualified professional, 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.</i> "	Comment addressed already. Staff has made the necessary changes.	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			<ul style="list-style-type: none"> ○ The YN DNR is concerned that the following sections of Chapter 16C.11 are inconsistent with the requirements 16C.11.020(3). 		
		16C.11.040 Upland Wildlife Habitat Conservation Areas.	<p>▪ 16C.11.040(3) Species and Habitats of Local Importance. Subsection (3) has been edited to read: <i>"The WDFW Priority Habitat and Species list for Yakima County shall be included as a baseline for this list, to be added to be other organizations is included in this Title as Appendix B."</i></p> <p>▪ Subsection 16C.11.040(3)(e) states <i>"Species and/or Habitat of Local Importance shall be adopted as appendices to this title."</i></p> <p>□ Other than the confusing grammar, what does this mean? Does this mean the new PHS list in Appendix B are now Species and Habitats of Local Importance? Or if someone wants to nominate a SHOLI they start with the PHS list? When you include subsection (3)(e), it reads like Appendix B is now SHOLI. This needs to be clarified. The YN DNR supports the WDFW PHS lists and maps to be included as Species and Habitats of Local Importance, but if that is not the intent of the edits, YN DNR, along with WDFW, requests a nomination of shrub-steppe habitat, based on BAS, as a Habitat of Local Importance, consistent with section 16C.11.020(1).</p>	<p>YN must have a wrong version, the edits read as follows: <i>"The WDFW Priority Habitat and Species list for Yakima County shall be included as a baseline for this list, to be added to be other organizations is included in this Title as Appendix B."</i></p> <p>Staff response: The PHS is also the SHOLI list and does include shrub-steppe. Edits made to (3)(e) to clarify confusing language regarding the lists.</p>	PC Recommendation: Ashley makes a motion to accept staff's edits regarding YN comment. Nancy seconds motion. Vote 5 to 0.
		16C.11.060 Permit and Critical Areas Report Requirement	16C.11.060(1), page 95. Subsection (1) is the main issue with Yakima County's failure to adequately protect upland wildlife habitat, especially	Upon further research it appears that Yakima County did amend this section as part of the 2007 GMA appeal on	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			<p>shrub-steppe habitat. Subsection reads: “(1) <i>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</i> may [emphasis added] <i>be required to submit Critical Areas Identification Form and site plan as per 16C.03.02(1). The Administrative Official</i> may [emphasis added] <i>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.</i>”</p> <p><input type="checkbox"/> Both instances of the term “may” in 16C.11.060(1) must be changed to a “shall” to insure internal consistency, and compliance with the GMA, for the designation and protection of Fish and Wildlife Habitat Conservation Areas, especially habitat for Threatened, Endangered and Sensitive species. Developments that are within the “Upland Wildlife Habitat” map must, at a minimum, and submit a Critical Areas Identification Form and site plan per 16C.03.02(1), including consultation with WDFW and YN DNR. It is unclear how the County determines when a habitat assessment is necessary, unless they have a wildlife biologist on staff. Not all developments should require a habitat assessment, but a more detailed</p>	<p>the CAO. The text should read:</p> <p>“(1) <i>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</i> may [emphasis added] <i>be required to submit Critical Areas Identification Form and site plan as per 16C.03.02(1). The Administrative Official</i> may shall <i>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.</i>”</p>	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			review by qualified wildlife professionals is necessary to protect the habitat and species. It is also recommended that a reference to the mitigation sequence standards in 16C.03.10 be added, this will insure developments are designed accordingly. The issues specific to upland wildlife habitat, is that the current waiver doesn't work. For example, a "small scale" development (single family residence) is proposed on a 40 acre parcel of shrub-steppe habitat, there is currently no Yakima County process required, because the critical areas form is not required. This could result in development on top of a sage grouse lek, or the disturbance of a vital migration corridor. This doesn't mean the development is prohibited, but through habitat identification, and mitigation sequencing, the development is placed in the area least likely to negatively affect the habitat.		
WDFW					
		16C.02.203 Fish and Wildlife Habitat Conservation Areas	"Fish and wildlife habitat conservation areas" are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with	Accept recommended change.	

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			<p>high relative population density or species richness. These areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. <u>Natural watercourses such as streams and rivers that carry irrigation water are not considered part of these artificial features.</u></p> <p><i>Reason:</i> WDFW recommends that the wording be clarified so to mean only artificial features for features not included under the FWHCA. Many natural occurring streams in Yakima County are used as irrigation delivery systems but contain important habitat for priority fish and wildlife species. Using a natural watercourse for irrigation purposes, or calling such a watercourse used for irrigation an “irrigation facility”, does not make it that for regulatory purposes.</p>		
		16C.03.02 (3)(c)(ii):	<p>The project is of a small scale disturbs less than an acre, including excluding access and utilities, or is uncomplicated in nature, such that a specialist is not needed to identify impacts and mitigation. Work within a wetland, or stream channel, or a vegetative buffer would generally not meet this provision;</p> <p><i>Reason:</i> Disturbances caused by accesses and utilities can impact FWHCA functions and should be taken into consideration when evaluating the impacts of a proposed</p>	Staff deleted the one acre threshold, therefore the language regarding access and utilities is not needed anymore.	PC Recommendation: Nancy motion to approves staff’s deletion of proposed text back to existing language. Jerry seconded motion. Vote 5 to 0.

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			project. Including these impacts will encourage techniques such as clustering.		
		16C.03.02 (3)	<p>The Administrative Official shall review available information pertaining to the site and the proposal, including the Fish and Wildlife Habitat Checklist, and make a determination as to whether any critical areas may be affected by the proposal. If so, a more detailed critical area report shall be submitted in conformance with Section 16C.03.17 (Critical Areas Reports) and Section 16C.03.18.</p> <p><i>Reason:</i> WDFW's proposed checklist for Yakima County (attached) would allow the county to make informed choices regarding appropriate protection measures, based on information disclosed by the landowner.</p>	<p>Deny requested edit.</p> <p>Staff justification: Yakima County disagrees that "all development" fill out the checklist and consult with resource agencies prior to development. The existing CAO was adopted by the BOCC with the intent that most development not requiring public notice (i.e. Type 1's, Non-SEPA, and most building permits on individual lots of record) do not pose a significant risk to wildlife habitat and therefore do not require County critical area review.</p>	PC Recommendation: Addressed previously.
		16C.06.06 (2)	<p>Type 2 streams are those streams that may be perennial or seasonal and that are known to be used by anadromous fish or resident salmonids. Type 2 streams require protection due to the nature of their contributions to the functional properties listed in Section 16C.06.05. Designated Type 2 streams are listed in Appendix A of this title.</p> <p><i>Reasons:</i> (1) Bull trout, which are resident salmonids but not anadromous, are listed under ESA and need cool water, (2) resident rainbow trout can produce offspring that are anadromous (aka steelhead), (3) we expect the range of anadromous fish to expand to its historical extent as the Yakima Basin Integrated Plan</p>	Accept recommended edit.	

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			provides fish passage through area reservoirs.		
		16C.06.08(2)(d) Species and Habitats of Local Importance	<p>Mapped habitat areas for newly listed species will be generated as needed to supplement the existing maps.</p> <p>Habitats of local importance currently include:</p> <p>i: Type 2 Streams, lakes and/or ponds listed in Appendix A</p> <p>ii: <u>The WDFW Priority Habitat and Species list for Yakima County listed in Appendix B</u></p> <p><i>Reason:</i> While WDFW appreciates that the Yakima County PHS has been recommended for adoption as the baseline for habitats and species of local importance for the UFWHCA (16C.11.040 (3) (a), WDFW recommends that Yakima County include the Yakima County PHS list as baseline for the local species and habitats of importance for the FWHCA as well (16C.06.08 (2) (d), to be included as Yakima County Species and Habitats of Local Importance.</p>	Accept recommended edits.	
		16C.06.08(3)(g) WDFW Priority Habitat and Species (PHS) maps	<i>Reason:</i> Add PHS maps as a source of information	Accept recommended edits.	
		16C.06.16(a)	<p>Vegetative Buffers shall be measured horizontally from the Ordinary high Water Mark (OHWM) for streams, lakes and ponds, and from the wetland edge for wetlands, as identified in the field. The width of the buffer shall be determined according to the stream or wetland type. <u>If the floodplain exceeds these widths, the buffer shall extend to</u></p>	<p>Deny recommended change.</p> <p>Staff justification: Buffer widths out to the outer edge of the 100-year floodplain are excessive and would create an undue burden to property owners in this County.</p>	PC Recommendation: Ashley moves to accept staff's recommendation Nancy seconds. Vote 5 to 0.

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			<p><u>the outer edge of the 100-year floodplain.</u></p> <p><i>Reason:</i> As noted in table 3 below regarding the point from which vegetative buffers are measured (i.e., inclusion of floodplains and channel migration zones), the buffers should be entirely inclusive of the 100 year floodplains. I have attached our general recommendations from our PHS riparian guidance document for riparian areas considerations applicable to Critical Areas Ordinances as an attachment to this letter.</p>		
		Table 6-1: Note:	<p>Yakima County's standard widths for stream buffers as listed in Table 6-1 of the proposed CAO are <i>significantly</i> narrower than what WDFW recommends (see table 3 below from our 1997 PHS Riparian guidance), particularly for Type 3 and 4 streams. WDFW is currently updating the buffer guidance measurements for Volume 2 of the PHS riparian guidelines. Until those are finalized, the 1997 table below still represents WDFW BAS. By applying CAO protections to only the inner portion of riparian ecosystems, Yakima County stands to allow significant loss of riparian functions. <i>We strongly recommend the County adopt standard stream buffers that manage and protect the entire riparian ecosystem and are consistent with our general recommendations.</i> Furthermore, the buffers in Table 6-1 create significant risk that riparian ecosystem functions will be lost and</p>	<p>Deny recommended edits.</p> <p>Staff justification: Yakima County's current stream buffers, as recently as 2013, have been determined by the GMHB as compliant with GMA, having used the most recent BAS for riparian management recommendations published by WDFW.</p>	PC Recommendation: Previously addressed and Vote.

Reference In CAO	Line Number(s)	Chapter	Comment	Response	PC Recommendation May 3 and 10, 2017
			that salmonids and other aquatic resources will experience reductions in habitat quality and quantity. <i>We strongly recommend that the county implement a robust monitoring and adaptive management program</i> to ascertain if the buffers and other measures in the CAO are providing no net loss of riparian ecosystem function.		

Comments and responses to comments submitted prior to PC Hearing on April 12, 2017.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
Yakima County Water Resources				
WR-1	41-42	16C.01.01 Title and Authority	Add “RCW 86.16” and “44CFR, Parts 59 and 60” to reference State and FEMA requirements.	Accept recommended change.
WR-2	63-64	16C.01.04 Intent of Title	Add “RCW 86.16” to reference regulatory authority.	Accept recommended change.
WR-3	108	16C.01.05 Applicability	Add “or as a Frequently Flooded Area under Critical Area Ordinance”	Accept recommended change.
WR-4	377	16C.02.12X Definitions	Add definition “Critical Areas.” Critical areas include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.	Accept change and update intent statement of CAO as well.
WR-5	507	16C.02.24X Definitions	Add definition “Frequently Flooded Areas.” Frequently Flooded Areas are defined by: (a) Flood Insurance Rate Maps (FIRM) from FEMA; (b) Preliminary Updated FIRM Maps from FEMA; (c) Floods of Record; and (d) Mapped Channel Migration Zones.	Accept recommended change. Add definitions for Frequently Flooded Areas as well.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
			<p>Definitions:</p> <ul style="list-style-type: none"> (a) The 100-year floodplain designations of the FEMA National Flood Insurance Program (NFIP). (b) Preliminary updated maps (until they are superseded by final maps) as best available science in meeting CAO update requirements when they are more restrictive than the current FIRM. (c) The area identified as inundated during the “flood of record,” identification of areas subject to flooding, or stream systems where the path of floodwaters can be unpredictable. (d) Channel Migration Zones are the areas where the river channel is likely to shift or “migrate” over time. 	
WR-6	1031	16C.03.05(1)(b) Minor Activities Allowed without a Permit	Add “County Levees”	<p>Accept recommended change. Allows for timely repairs.</p> <p>Point of discussion: The repair of levees is not categorically exempt from SEPA.</p> <p>WAC197-11-800(3)(d) Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.</p>
	1048	16C.03.05(1) Minor Activities Allowed without a Permit	Add “ (i) Removal or setting back from the thalweg of flood control structures such as levees or buildings to restore or enhance anadromous fisheries including restoration of critical area habitat, increased floodplain connectivity or increased passage of said species, including actions under RCW 89.08.460, Watershed Restoration Projects< and documented to the satisfaction of the County. Structures include those established under WAC 173-26-221 (3)	<p>Deny recommended change.</p> <p>Removal of structures and levees isn’t a “Minor Activity.” There is the potential for substantial projects to forgo permitting if this change is adopted.</p> <p>Processing a permit also allows for notification to the community and interested agencies.</p>
WR-7	2636	16C.06.03(1) Designation and Mapping – Hydrologically Related Critical Area Features	Add “and Frequently Flooded Areas.”	Accept recommended change.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
WR-8	2819	16C.06.11 General Policies and Standards	Change references from “Eastern Washington Stormwater Manual” to “Yakima Regional Stormwater Manual”	Accept recommended change.
Yakama Nation				
	438-447	16C.02.203 Definitions	<p>WAC 365-190-030(6)(c) is inconsistent with WAC 365-190-030(6)(a) and should be removed from the definition of “Fish and Wildlife Habitat Conservation Areas.”</p> <p>The statement would remove the Yakima and Naches Rivers, and numerous other natural waterways, from FWHCA designation, since they are part of an irrigation delivery system, and are within an irrigation district.</p>	<p>Reject recommended change. The language clearly identifies that the definition does not apply to <u>artificial features or constructs</u> (emphasis added), therefore natural waterways would continue to be protected under the critical areas ordinance.</p> <p>Further, the update checklist provided by the Washington State Department of Commerce requires the CAO to include the statement in question.</p> <p>RCW definition (RCW 36.70A.030(5): (5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. <i>"Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.</i></p>
	1029-1034	16C.03.05 Minor Activities Allowed without a Permit	a) Earthwork within the ordinary high water mark (OHWM) of a critical area, or clearing of vegetation with a critical area cannot qualify.	a) The intent is to allow that limitation to continue. Certain activities taken by irrigation districts require that work occur below the OHWM. Clearing activities currently do not qualify as a Minor Activity Allowed without a Permit, 16C.03.05(b), and there are no proposed changes to that standard.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
			<p>b) Any proposed work within the OHWM would require SEPA review, and the logical place to design mitigation through a SEPA Mitigated Determination of Non-Significance would be through the CAO.</p> <p>c) Most concerning is the staff note that levee repair would not require CAO review. Further clarification on what this does and what does not qualify is necessary.</p>	<p>b) WAC 197-11-800(3) allows for limited repair, remodeling, and maintenance activities to be exempt from SEPA, even when they are within the OHWM.</p> <p>WAC 197-11-800(3) Repair, remodeling and maintenance activities. The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, recreation, and transportation facilities involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:</p> <p>(a) Dredging of over fifty cubic yards of material;</p> <p>(b) Reconstruction or maintenance of groins and similar shoreline protection structures;</p> <p>(c) Replacement of utility cables that must be buried under the surface of the bedlands; or</p> <p>(d) Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.</p> <p>c) Planning staff is coordinating with the Water Resources staff to develop appropriate language that would limit maintenance to County maintained levees.</p>
	2970	16C.06.16 Vegetative Buffers	The CAO updates the reference to the wetland rating system, but does not update the buffers associated with the rating system.	Recommendation: Use existing Buffer language found in current CAO.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
YN-1	3882-3903	16C.11.050 Upland Wildlife Habitat	WDFW adopted the Washington State Wildlife Action Plan.	The Washington State Wildlife Action Plan will be added to the BAS documents. WDFW has been consulted for this update, and their suggested revisions to the Draft CAO have been reviewed.
YN-2	3994-3997	Appendix A – Type 2 Stream Corridors	The mapping of Wenas Creek as a Type 2 Stream should be extended to the base of the Wenas Dam.	Accept recommended change.
Matthew Seaman				
	General Statements	General Statements	Yakima County is not compliant with FEMA regulations.	The Yakima County Water Resources Division is responsible for certifying compliance with FEMA standards. Their comments during the update process will ensure that Yakima County remains in compliance with FEMA requirements.
WDFW				
	13-14	General Statements	How are streams mapped with an “undetermined” status going to be regulated? For instance, where irrigation conveyance and natural streamflow are comingled.	Mapping is an administrative exercise. Where a project action occurs near an “undetermined” stream, there is a review of the historic aerial photography. If the feature is a natural feature, it is then regulated under the CAO. If it is artificial, it is not.
WDFW-1	22	General Statements	Somewhere a list of species particularly in need of protection (threatened, endangered) in Yakima County (other than salmonids, lamprey) should be presented, along with the respective protection plans, or references to existing protection plans	The CAO references the WDFW listing of threatened and endangered species (WAC 232-12-014 and WAC 232-12-011 and WAC 232-12-011 WDFW provided a list of PHS that has been incorporated into “Appendix B.”
WDFW-2	69	16C.01.04 Intent of Title	Replace “comprise” with “compose”	Accept recommended change.
	235	General Statements	Some definitions are straight out of the WAC, yet others are modified. Reason behind this inconsistency?	Not all definitions are derived from the WAC. Where we are required to use definitions from WAC, we have. Otherwise definitions have been added as needed.
	379-381	16C.02.120 Definitions: Construction	“other improvements” is a legally inadequate term. Must specify better.	Recommend no change.
	389	16C.02.135 Definitions: Development	This definition does not provide for protection of Critical Areas, as the term is applied within FWHCA, from the intended uses of “development”. Thus, need	Recommend no change. We have a list of prohibited uses in 16C.06.10. Project proposals are reviewed to determine if there are impacts to the

Reference In CAO	Line Number(s)	Chapter	Comment	Response
			to have appropriate listed “Permitted Uses” and “Unpermitted Uses” for one or both FWHCA.	critical area (i.e. – either the project is within or outside of the critical area).
	393	16C.02.135 Definitions: Development	“construction” can include many, many impacting activities that may not require a permit.	Recommend no change. If development is occurring within a critical area, a permit is required, unless it’s a minor use or activity allowed without a permit.
WDFW-3	393-394	16C.02.135 Definitions: Development	Why is just for 16C.05 “...20 through “...72”? “Development” definition should be as Thurston County’s CAO.	Chapter 5 is unique in that it is administered by the Chief Building Official (16C.05.44.010). Thurston Co.: "Development" means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, clearing, paving, excavation or drilling operations, storage of equipment or materials, or any other activity which results in the removal of vegetation or in the alteration of natural site characteristics. Recommend that we change our definition of Development to match Thurston County’s.
	445-454	16C.02.203 Definitions: Fish and Wildlife Habitat Conservation Areas	This definition does not meet the minimum standard set forth in WAC 365-190-130(1) Esp. “ means land management for maintaining populations of species in suitable habitats within their natural geographic distribution	DISCUSSION The definition we use is from WAC 365-190-030(6)(a) and (c), which identifies what FWHCAs are. WAC 365-190-130(1) are the guidelines for Fish and Wildlife Habitat Conservation, not identifying the designated area.
WDFW-4	513	16C.02.240 Definitions: Forest Practices	Check on this. Mining is not typically associated with definition of FP.	Recommend updating our definition to match below. WAC 222-16-010/RCW 76.09.020 (17) "Forest practice" means any activity conducted on or directly pertaining to forestland and relating to growing, harvesting, or processing timber, including but not limited to:

Reference In CAO	Line Number(s)	Chapter	Comment	Response
				(a) Road and trail construction, including forest practices hydraulic projects that include water crossing structures, and associated activities and maintenance; (b) Harvesting, final and intermediate; (c) Precommercial thinning; (d) Reforestation; (e) Fertilization; (f) Prevention and suppression of diseases and insects; (g) Salvage of trees; and (h) Brush control.
WDFW-5	698-701	16C.02.335 Definitions: Riparian vegetation	WDFW Riparian Definition: “Riparian areas are transitional between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence).”	Accept recommended change.
WDFW-6	722-730	16C.02.36X Definitions: Shrub-steppe	Shrub-steppe. A nonforested vegetation type consisting of one or more layers of perennial bunchgrasses and a conspicuous but discontinuous layer of shrubs (see Eastside Steppe for sites with little or no shrub cover). In areas with greater precipitation or on soils with higher moisture-holding capacity, shrub-steppe can also support a dense layer of forbs (i.e., broadleaf herbaceous flora). Shrub-steppe contains various habitat features, including diverse topography, riparian areas, and canyons. Another important component is habitat quality (i.e., degree to which a tract resembles a site potential natural community), which may be influenced by soil condition and erosion; and the distribution, coverage, and vigor of native shrubs, forbs, and grasses. Sites with less disturbed soils often have a layer of algae, mosses, or lichens.	Accept recommended change.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
			WDFW Comment: Definitions do not include habitats of importance in the uplands—you have riparian, but do not have shrub-steppe. Given the large overlay of shrub-steppe to areas of development, it is important to at least include shrub-steppe definition. Pasted in is WDFW PHS definition.	
	965	16C.03.02(3)(c) Critical Area Identification Form and Critical Area Report Requirements	Define small scale. If a house is built in the middle of 20 acres of shrub-steppe, the house may be a small footprint but its effect on the larger shrub-steppe parcel is not small in scale.	Recommendation: Disturbing less than one acre, excluding access and utilities classifies as small scale.
WDFW-7	969	16C.03.02(3)(c) Critical Area Identification Form and Critical Area Report Requirements	Add “with consultation from resource agencies” WDFW Comment: Mitigation should be associated with consultation from the resource agencies.	Accept recommended change.
	1064	16C.03.05(1)(e) Minor Activities Allowed without a Permit: Planting of native vegetation	Should this also include habitat restoration work?	Habitat restoration can get a streamline HPA from WDFW, which circumvents local permitting, including SEPA. If restoration work is not in a HRCA, what wouldn’t be planting of native vegetation?
	1092-1093	16C.03.10 Mitigation Requirements	However, mitigation should be implemented within a reasonable time of the start of alteration to the critical area.	If mitigation is required, it is typically required to be implemented upon completion of construction. Plantings are usually required to be done in spring or fall when risk of mortality is lowest.
	1160-1171	16C.03.13(2)(a) Development Authorization – Review Procedure	Mention of VSP here? as VSP will be governing interactions between shrub-steppe areas and grazing (ag).	Recommendation: No change. VSP is addressed in the applicability section of the CAO. If the VSP Work Plan is accepted by the WSCC, agricultural activities will not be regulated under the CAO. However, if the plan fails or isn’t accepted, the CAO will apply to agricultural activities and need to be reviewed/regulated and this language will be beneficial.
WDFW-8	1307-1308	16C.03.17(13) Critical Areas Report Requirements	And upland habitat, i.e. shrub-steppe? Conversion of shrub-steppe should also be part of compensatory mitigation.	Add “upland habitat areas”

Reference In CAO	Line Number(s)	Chapter	Comment	Response
WDFW-9	1402	16C.03.18(2) Supplemental Report Requirements for Specific Critical Areas: Upland Wildlife	Change “areas” to “habitat types”	Accept recommended change.
	1836	16C.04.03 Penalties	I don’t see any language of compensatory mitigation. They should be required to fix the damage caused to the critical area in addition to fines and/or jail time; fines and jail time do not fix the resource.	Recommendation: Add language to 16C.04.01 that requires those in violation to follow 16C.03.10 Mitigation Requirements to restore damaged critical areas if they cannot obtain permitting.
	2660-2661	16C.06.02(3) Protection Approach	What all tools went into this analysis? Did you use biodiversity corridors or other means beyond PHS mapped areas, which is a tool but not complete?	DISCUSSION Recommendation: Change language to clarify that Yakima County relies on WDFW best available science through their PHS mapping and wildlife management planning.
WDFW-10	2670-2671	16C.06.02(4) Protection Approach	While these corridors are an important component of wildlife connectivity, it is inadequately protective to rely on them exclusively. Reword to eliminate the exclusivity.	Recommend updating mapping based on PHS maps. VSP has created a number of layers we may be able to use.
	2752-2754	16C.06.06 Stream, Lake, and Pond Typing System	How are these identified? This looks like the DNR stream typing language. The DNR stream typing map is not a sufficient planning tool w/o ground trothing (DNR does not use the layer for FP w/o ground truth being required by applicants). Stream type should be required to be verified by a qualified professional.	Recommendation: No change to existing language. The stream types are defined. Maps are administrative and are revised as site-specific information becomes available.
	2763	16C.06.06 Stream, Lake, and Pond Typing System	Remove “anadromous” WDFW Comment: Why just anadromous? Even DNR definition of stream typing (1-5) just lists as fish bearing. Many important fish species are not anadromous.	Recommend no change. Yakima County is required to provide special protection for anadromous fish.
	2814-2817	16C.06.08(2) Maps: Administrative Maps	Currently mapped areas, including PHS is not comprehensive. The applicant should be required to fill out a checklist or consult a qualified professional if species covered under PHS may be present.	Recommendation: No change to existing language. Individual projects would be reviewed to determine if there are potential substantial impacts to the critical area.
	2865	16C.06.11 General Policies and Standards	Define. What is the minimum extent? Strengthen vague language.	Reject recommendation. This section is in the development standards that is guiding applicants to minimize disturbance to existing riparian

Reference In CAO	Line Number(s)	Chapter	Comment	Response
				vegetation and unique/sensitive vegetative species. As part of the application process for a reduction in standards, they are required to show/explain how the requested reduction is the minimum necessary to provide relief and will not harm the critical area.
	2867	16C.06.11 General Policies and Standards	Define. What is the minimum extent? Strengthen vague language.	Reject recommendation. This section is in the development standards that is guiding applicants to minimize disturbance to identified nesting areas and sensitive wildlife areas.
	3023	16C.06.16 Vegetative Buffers	Buffer widths should be consistent with WDFW PHS Riparian Guidance, now in Press	In reviewing the available documents from WDFW, the updated Riparian Guidance has not yet been published. Therefore, we cannot use it.
WDFW-11	3059	16C.06.17 Roads, Railroads, and Parking	Add “(or there is potential for fish to be present)” WDFW Comment: There are areas with blockages downstream where fish may not be currently present but the potential is there. Standard should be potential, not current presence.	Recommend changing language to say “where fish may be present”
WDFW-12	3232-3233	16C.06.23 Reclamation	Examples? This is vague and arbitrary.	Recommend we remove language allowing non-native species to be used.
WDFW-13	3868-3873	16C.11.020 Protection Approach	Remove “These lands are generally managed for the conservation of wildlife habitat” and replace with “Conservation of wildlife habitat is among the various goals for these public lands.” WDFW Comment: Wildlife habitat is one of the considerations, however it is not correct to say they are generally managed for conservation of wildlife habitat. For instance, WDNR mandate is to manage land and produce revenue for the trust. USFS has multiple mandates, wildlife habitat is only one of them, ditto for YTC and BLM. It could be said that conservation of wildlife habitat is among the management goals for these lands. WDFW Comment: Unless this approach has been scientifically evaluated as a viable possibility, County should not isolate public lands from private lands for the purposes of this section. All habitat types may not	Accept recommended change. The discussion in this section is about how Yakima County relies on state and federal agencies to manage their lands for wildlife habitat.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
			<p>be represented on public lands (esp. lower elevation, non-riparian bottomlands). “but it does mean not degrading or reducing populations or habitats (emphasis added) so that they are no longer viable over the long term “. It’s a biological call. Further, this idea provides the possibility of not protecting UWHCA, should the approach be solely chosen for specific proposals. Who gets to choose when the approach is selected? Can facilitate risky, unequal treatment of habitat-types and project proponents.</p> <p>WDFW Comment: As wildlife is not the main driver of all public lands, WDFW believes this is not a responsible approach to rely on public lands for the majority of wildlife management. Private lands are often important and strategically located through the core of the county and valley where animals need to connect through corridors.</p>	
WDFW-14	3891	16C.11.020 Protection Approach	Add “from a qualified professional”	Accept recommended change.
WDFW-15	3893-3895	16C.11.020 Protection Approach	Add “Where appropriate agencies will be consulted early in the process to determine potential impacts from the development on wildlife habitat”	Accept recommended change.
	3929-3930	16C.11.040(3)(a) Designation and Mapping: Upland Wildlife Habitat Conservation Areas	Large ungulates / ”Big Game” in Yakima County promotes a sizeable amount of economic activity. It would make sense that Yakima County, as much as any county in WA, would have them as Species of Local Importance.	Reject suggestion. Yakima County is currently relying on the PHS list created through WDFW.
WDFW-16	3931-3932	16C.11.040(3)(a) Designation and Mapping: Upland Wildlife Habitat Conservation Areas	Add “WDFW Priority Habitat and Species list for Yakima County shall be included as a baseline for this list, to be added to be other organizations.”	A table is included in the CAO update. It will be added as “Appendix B.”
WDFW-17	3962	16C.11.050 Mapping	Add “initial”	This is in reference to the map that was created, as WDFW wants more site specific review.
WDFW-18	3964-3966	16C.11.050 Mapping	Add “Wildlife resource agencies shall be consulted for their expertise on location of habitat conservation areas when insufficient information exists for an area.”	Accept recommended change.

Reference In CAO	Line Number(s)	Chapter	Comment	Response
WDFW-19	3978	16C.11.050 Mapping	Add “help”	Reference that we can’t rely solely on the maps.
	3986	16C.11.060 Permit and Critical Areas Report Requirement	Replace “may” with shall” WDFW Comment: May? Needs to be worded more affirmatively to ensure adequate protection.	Reject recommendation. It is required that a report be required when the proposal is shown to potentially impact the critical area.
	4000-4001	16C.11.060 Permit and Critical Areas Report Requirement	Sources? How strong and technically sound are the possible “local” management plans, if not from WDFW?	Recommendation: Change language to allow a management plan to follow management recommendations published federal or state, agencies. This removes the potential for local management plans to be used, unless they’re developed in concert with one of the aforementioned agencies.
WDFW-20	4015-4016	16C.11.070 Upland Wildlife Habitat Conservation Area Development Standards	WDFW Comments: None are in existence is the response I got from Byron on 01/26/17. “Counties and cities should identify, classify and designate locally important habitats and species. Counties and cities should consult current information on priority habitats and species identified by the Washington state department of fish and wildlife. Priority habitat and species information includes endangered, threatened and sensitive species, but also includes candidate species and other vulnerable and unique species and habitats.” WDFW Comments: WDFW supplied the Yakima County PHS list to Yakima County planners on 1/30/17. This list should be adopted unless there is better source of information.	At this point, there have been no Species and Habitats of Local Importance identified. We have adopted those habitats and species as identified by WDFW. We are adding the list provided to the CAO as “Appendix B.”
	4023	Appendix A: Designated Type 2 Stream Corridors	WDFW Comments: Type 2 streams should be fish bearing streams and Yakima Co has many more fish bearing streams that are not Type 1 (shorelines) than listed here; i.e. Cowiche (NF and some of SF), Oak, Indian, etc.. (way too many to list, here, but if including an Appendix it should be comprehensive to ALL fish streams within the coverage of the CAO).	We list Type-2 stream separately to provide for special protection of anadromous fisheries.
WDFW-21	4072-4075	Appendix A: Designated Type 2 Stream Corridors	WDFW Comments: Sec 13 in T16N-R16E?	Mapping will be extended to the base of Wenas Dam.
Futurewise				

Reference In CAO	Line Number(s)	Chapter	Comment	Response
FW-1	3532-3533	16C.08.04 Geologic Hazards	Current regulations to protect life and property from landslides is not sufficient. Protection from landslides should be based on the area-volume relationship, not the height-length ratio.	Recommend updating 16C.08.04(1)(c) to reference area-volume ratio rather than height-length ratio.
	1419-1445 3556-3569	16C.03.18(4) Supplemental Report Requirements for Specific Critical Areas 16C.08.05 Geologic Hazards: General Protection Requirements	Require site-specific identification of the top of the landslide toe and faces subject to failure and sliding, toe of slope areas subject to impact from down slope run-out, and buffers for areas subject to landslide hazards include top, side, bottom runout buffers.	Recommendation: Require a geotechnical analysis when there is a mapped landslide area on or within 500' of the proposed development location.
	General Statement	16C.08 Geologic Hazards	Recommend that construction not be allowed on landslides, land slide run-out areas, and their buffers.	Recommendation: Add construction of residential structures to the list of prohibited uses/developments in 16C.06.10.
	General Statement	16.08 Geologic Hazards	Recommend that Yakima County require adequate public notice of landslide hazards.	Recommendation: Add a policy in the Natural Settings Element to coordinate with the Assessor's Office to notify landowners who have property in landslide areas that a potential hazard exists.
FW-2	3384-3388	16C.08.02 Geologic Hazards: Mapping and Designation	Should identify the DNR landslide hazard maps and landslide hazards	The maps will be updated to reflect DNR's most recent maps.
	3699-3736	16C.09.06 Critical Aquifer Recharge Areas: Performance Standards	Propose the new ground water users provide evidence that the proposed water source is physically and legally available and meets drinking water standards.	DISCUSSION