

# **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 8<sup>th</sup>, 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.

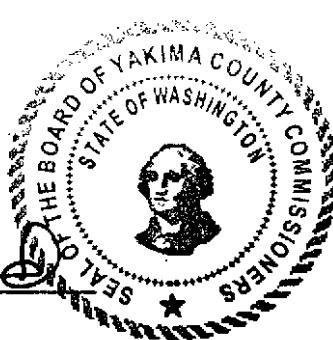
**Section 5. Severability.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity 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 61<sup>st</sup> day after posting of the Notice of Adoption, unless successfully appealed.

DONE this 27<sup>th</sup> day of June, 2017

*Tiera S. D.*

Attest: Tiera Girard  
Clerk of the Board



*gr*  
J. Rand Elliott, Chairman

*Ron Anderson*  
Ron Anderson, Commissioner

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

Exhibit 1 – Critical Areas Ordinance of Yakima County, Washington, Yakima County Code Title 16C.  
Exhibit 2 – Yakima County Planning Commission Findings and Recommendations