

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE 10 - 2019

IN THE MATTER OF REPEALING ORDINANCE 3-1994 – YAKIMA COUNTY CODE TITLE 16A CRITICAL AREAS ORDINANCE, PERTAINING TO THE IMPLEMENTATION OF THE VOLUNTARY STEWARDSHIP PROGRAM, AS ADOPTED BY THE WASHINGTON STATE LEGISLATURE THROUGH ESHB 1886.

WHEREAS, the Growth Management Act (“GMA”), chapter 36.70A RCW, requires all local governments to designate and protect critical areas (RCW 36.70A.170(1)(d) and RCW 36.70A.060(2)); and

WHEREAS, pursuant to RCW 36.70A.060, the Board of Yakima County Commissioners (“Board”) adopted Title 16A, the Critical Areas Ordinance (“CAO”), on July 12, 1994 (Ordinance No. 3-1994); and

WHEREAS, the Board amended and re-enacted an amended CAO on October 1, 1995 (Ordinance No. 8-1995) in response to a compliance order from the Eastern Washington Growth Management Hearings Board (Case No. 94-1-0021); and

WHEREAS, the GMA requires Yakima County to review and, if necessary, revise its development regulations to ensure compliance with the requirements and time periods established in the GMA; and

WHEREAS, RCW 36.70A.560 and .5601 (commonly referred to as the “Ruckelshaus Amendment”) required that for the period ending May 1, 2007, and concluding July 1, 2010 (amended by 2010 c 203 § 3 to December 1, 2012), counties and cities shall defer amending or adopting critical areas ordinances as they specifically apply to agricultural activities on agricultural and rural lands (a “moratorium”); and

WHEREAS, Yakima County performed the Washington State Growth Management Act (“GMA”) update to its Critical Areas Ordinance (Yakima County Code Title 16C) in 2007 (Ordinance 13-2007), it retained the previous version of the Critical Areas Ordinance (YCC Title 16A) as the regulations that apply to agricultural activities as necessary to comply with RCW 36.70A.560 and 5601.

WHEREAS, The Washington State Legislature, through Engrossed Substitute House Bill 1886 (ESHB 1886) in 2011, amended the Growth Management Act (RCW 36.70A) to allow for options for protecting critical areas and created a Voluntary Stewardship Program (“VSP”) for protection of critical areas in areas of agricultural activities (RCW 36.70A.710); and

WHEREAS, ESHB 1886, states that “As an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW

36.70A.060, the legislative authority of a county may elect to protect such critical areas through the program”; and

WHEREAS, Yakima County by Ordinance 14-2012 (Jan 10, 2012) opted into the Voluntary Stewardship Program (VSP) when Washington State funding was provided; and,

WHEREAS, the Director of the Washington State Conservation Commission approved the VSP work plan as required by RCW 36.70A.725(3)(a)(ii) on October 27, 2017; and

WHEREAS, RCW 36.70A.130 requires that Yakima County as a “fully planning” county; shall update its comprehensive plan and development regulations, as necessary, to reflect local needs, new data, and current laws; and

WHEREAS, to meet the obligations of RCW 36.70A.130 and to effectively implement the recently approved VSP work plan, YCC Title 16A needed to be repealed; and

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

WHEREAS, Yakima County Planning Division was tasked with repealing YCC Title 16A and those titles that reference Title 16A; and

WHEREAS, the proposed text amendment to YCC Titles 2, 12, 13, 16, 16A, 16B, 16C, 16D, 19, and 20, were presented to the Planning Commission for their review on March 13, 2019; and

WHEREAS, Yakima County initiated text amendments must be processed in compliance with the State Environmental Policy Act (SEPA); and

WHEREAS, on August 29, 2019 Yakima County provided a 60-Day notice to the Department of Commerce, as required by RCW 36.70A.106 on the proposed repeal of Title 16A; and

WHEREAS, the Planning Commission conducted a properly advertised and noticed public hearing on September 11, 2019, to hear testimony on the proposed repeal of YCC Title 16A; and

WHEREAS, the Planning Commission held their deliberations on September 11, 2019; and

WHEREAS, the Planning Commission, having carefully considered the staff recommendation, and the written and oral testimonies in its deliberations presented to the Board of Yakima County Commissioners on October 9, 2019, their Findings and Recommendations on the proposed text amendments; and

WHEREAS, on December 3, 2019, Yakima County staff issued a Determination of Non-Significance for the 2019 Development Regulation Text Amendments (SEP2018-00007 and SEP2018-00040) which analyzed the environmental and growth management impacts of all proposed actions and considered all submitted comments from agencies and parties of record; and

WHEREAS, the proposed text amendments to regarding the repeal of YCC Title 16A, were presented to the Board of Yakima County Commissioners for their review on December 9, 2019; and

WHEREAS, the Board of Yakima County Commissioners conducted a properly advertised public hearing on December 10, 2019, to hear testimony on the proposed text amendments outlined in the Planning Commission recommendations; and

WHEREAS, the Board of Yakima County Commissioners held their deliberations on December 10, 2019, immediately after the close of the open record public hearing and did adopt motions approving, denying or modifying the proposed text amendments; and now therefore,

BE IT HEREBY ORDAINED by the Board of Yakima County Commissioners that:

Section 1. Reasons for Action

The 2019 amendments regarding the repeal of YCC Title 16A before the Board of Yakima County Commissioners are as follows:

- A. The repeal of YCC Title 16A – Critical Areas Ordinance as a result of Engrossed Substitute House Bill 1886 which nullified Title 16A upon the approval of the Yakima County Voluntary Stewardship Program work plan by the Director of the Washington State Conservation Commission on October 27, 2017.
- B. Those proposed development regulation text amendments to Yakima County Code Titles 2, 12, 13, 16, 16A, 16B, 16C, 16D, 19, and 20 to remove all references to YCC 16A, including minor text changes to maintain internal consistency.
- C. A staff report for the proposed development regulation text amendments were provided to the Planning Commission that identified specific issues and recommended approval, modification or denial of the proposed amendments. Following public testimony and deliberations, the Planning Commission has determined which of the proposed amendments are needed to repeal YCC 16A, maintain internal consistency, correct errors, address deficiencies or more closely correspond to the goals, policies and intent of *Horizon 2040* and presented their findings and recommendations to the Board of Yakima County Commissioners for their consideration. The Board of Yakima County Commissioners then reviewed said amendment requests, held public hearing and decided to approve, modify or deny the proposed amendments.

Section 2. Findings

- A. Compliance with Growth Management Act. The Board of Yakima County Commissioners find that the amendments to YCC Title 19, adopted by this ordinance are in substantial compliance with RCW 36.70A (the Growth Management Act, or GMA). The Comprehensive Plan is internally consistent and policies within and among elements are complementary, not contradictory. The Comprehensive Plan contains policies, implementation measures, and procedures which provide for its review and adjustment if internal conflicts are discovered.
- B. State Environmental Policy Act (SEPA). The Board of Yakima County Commissioners find that the December 3, 2019, Determination of Non-Significance for the 2019 Development Regulation Text Amendments (SEP2018-00007 and SEP2018-00040) which analyzed the environmental and growth management impacts of all proposed actions and considered all submitted comments from agencies and parties of record.
- C. Planning Commission Findings. The Board of Yakima County Commissioners adopts the proposed development regulation text amendments (LRN2018-00007) as detailed in the Findings and Recommendations of the Planning Commission dated October 9, 2019, which includes:
 - a. LRN2018-00007/SEP2018-00040 – YCC Title 16A Repeal

Repeal of YCC Title 16A and associated development regulation text amendments as set forth in Exhibit 1.


Section 3. 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 4. 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-day appeal period. Therefore, this ordinance becomes effective on the 61st day after posting of the Notice of Adoption, unless appealed. In the event of an appeal to the Growth Management Hearings Board, those specific amendments in said ordinance that were not appealed would be effective upon the 61st day.

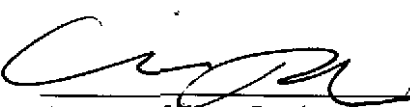
DONE this 17 day of December 2019




Michael D. Leita, Chairman



Norm Childress, Commissioner
EXCUSED



Attest: Melissa Paul, Clerk of the Board



Ron Anderson, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

EXHIBIT 1

2.23.050 Standards of Conduct.

(1) No person, including city or county officials, elective or appointive, shall attempt to influence an examiner in any matter pending before him, except at a public hearing duly called for such purpose, or to interfere with an examiner in the performance of his duties in any other way; provided, that an official or employee of the city of Yakima or Yakima County may, in the performance of his official duties provide information to the examiner when the action is disclosed at the hearing or meeting nor shall this section prohibit rendering of legal services to the examiner or to the board.

(2) No examiner shall conduct or participate in any hearing or decision in which the examiner shall have a direct or indirect financial or personal interest or in which such conduct or participation shall violate any rule of law applicable thereto.

(Ord. 8-1985 §1(part), 1986).

2.23.060 Rules.

The examiner shall implement procedural rules for the conduct of hearings and other procedural matters related to the duties of his office in accordance with RCW 36.70.970.

(Ord. 8-1985 §1(part), 1986).

2.23.070 Time Computation.

In computing any period of time prescribed by this chapter, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a county legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or county legal holiday.

(Ord. 8-1985 §1(part), 1986).

2.23.080 Duties and Powers.

The examiner shall hear, make a record of, and decide matters provided in this chapter or by other ordinances including but not limited to the following land use and adult entertainment facility licensing matters:

- (1) Matters prescribed by Title 19 of this code. Decisions of the examiner on such matters shall have the legal effect as set forth in the provisions of Title 19 of this code.
- (2) Review of preliminary plats and modifications thereto within the county using the procedures and provisions for review by the planning commission as set forth in RCW Chapter 58.17. The decisions of the hearing examiner on such matters shall constitute recommendations to the board of county commissioners.
- (3) Plat vacations or amendments pursuant to RCW Chapter 58.17. Decisions of the examiner on such matter shall constitute final decisions unless appealed to the board under the provisions of this chapter.
- (4) The examiner shall conduct hearings pursuant to RCW Chapter 43.21C State Environmental Policy Act (SEPA) in Title 16 of this code.
- (5) The matters prescribed by the Yakima County Critical Areas Ordinance – Titles ~~16A and 16C~~ Yakima County Code, except Chapters ~~16A.05 and 16C.05~~.
- (6) The matters prescribed by the Project Permit Administration Ordinance – Title 16B Yakima County Code.
- (7) The matters prescribed by the Yakima County Regional Shoreline Master Program – Title 16D Yakima County Code, except Chapter 16D.05.
- (8) Adult entertainment licensing appeals as set forth in the provisions of Chapter 5.06 of this code.

The provisions of this section designating and assigning the hearing examiner the duties and functions listed in this chapter shall supersede any and all conflicting provisions of this code.

hydraulically sorted sediments, or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial drainageways, unless they are used to convey streams naturally occurring prior to construction.

“Structure” means anything constructed or erected, even partially, including buildings, which requires location on the ground or attached to something having a location on the ground.

“UIC” or “UIC well” or “Underground Injection Control” means a manmade sub-surface fluid distribution system designed to discharge fluids into the ground and consists of an assemblage of perforated pipes, drain tiles, or other similar mechanisms, or a dug hole that is deeper than the largest surface dimension. A public UIC is one owned, operated, and maintained by Yakima County and includes the collection system of catch basins, pipes, ditches, or other public infrastructure that collects and conveys stormwater to the UIC.

“Upland Flow” means runoff from lands upslope of a project site.

“Urban Roads” means roads located within designated Urban Growth Areas. Partially controlled limited access highways located inside of Urban Growth Areas are considered urban roads.

“Waters of the State” includes those waters as defined as “waters of the United States” in 40 CFR 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter 90.48 RCW which includes: lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.

“Wetland” or “Wetlands” includes those areas as defined in YCC ~~16A.16C.02.425~~ and ~~16D.02.425~~.

(Ord. 3-2016 (part), 2017).

12.10.200 What Is Required on a Site Plan.

(1) General. The site plan shall identify natural drainage, floodplains, floodways, and drainage easements on the plat site plan and record drainage easements on the plat in accordance with YCC 12.10.230 (When a Stormwater Drainage Easement Is Required).

(Ord. 3-2016 (part), 2017).

12.10.210 When a Stormwater Plan Is Required.

(1) General. The approval of applications for land development or redevelopment projects (projects) that are submitted pursuant to Yakima County Codes 12, 13, 19, ~~16A~~, 16C, and 16D that meet the following criteria shall be subject to the approval of a stormwater plan by the Public Services Director:

- (a) Projects that disturb a land area greater than one acre.
- (b) Projects that disturb a land area less than one acre when the project is part of a larger common or combined plan of development where the combined projects disturb a land area greater than one acre. When recurring developments which have been under an acre, but become cumulative exceeding one acre, they are considered part of a common plan.
- (c) Projects where the division of land creates more than 4 lots.
- (d) Projects where SEPA review is required and it has been determined that the project has potential adverse impacts related to stormwater.
- (e) Projects where the Public Services Director, Building Official, or designee has determined that erosion and drainage control is required.
- (f) Projects where the Public Services Director, or designee, has determined that a potential adverse impact to adjacent or nearby property or water quality may result from stormwater.

427.5.1 Controlled atmosphere storage buildings need not comply with the requirements of Section 905.

(Ord. 10-2016 § 2 (part), 2016).

13.05.080 Amendment to Chapter 16, Section 1608, Snow Loads.

Section 1608.2 of the International Building Code, 2015 Edition, is amended as follows:

1608.2 Ground snow loads. The ground snow loads to be used in determining the design snow loads for roofs shall be determined in accordance with ASCE 7 or Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated "CS" in Figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved by the building official. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). The Structural Engineers Association of Washington has conducted and published a case study (CS) for Washington State. This case study, titled "Snow Load Analysis for Washington", may be used to establish the ground snow load in all areas of Yakima County in lieu of a site specific case study. Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.

(Ord. 10-2016 § 2 (part), 2016).

13.05.090 Amendment to Chapter 16, Section 1612, Flood Loads.

Section 1612 of the International Building Code, 2015 Edition, is amended as follows:

SECTION 1612

FLOOD LOADS

1612.1 General. Within flood hazard areas as established in Section 1612.3, all new construction of buildings, structures and portions of buildings and structures, including substantial improvements and restoration of substantial damage to buildings and structures, shall be designed and constructed to resist the effects of flood hazards and flood loads and shall be anchored to prevent floatation, collapse, or lateral movement of the structure. For buildings that are located in more than one flood hazard area, the provisions associated with the most restrictive flood hazard area shall apply.

All new construction and any improvements or additions to an existing floodproofed structure that would extend beyond the existing floodproofing located within 100 feet of a floodway or ordinary high water mark, if no floodway has been established, shall also meet the requirements of Yakima County Code 16A.05.28.010 and 020, Yakima County Code 16C.05.28.010 and 020, and YCC 16D.05.28.010 and 020.

1612.2 Definitions. The following terms are defined in Chapter 2:

BASE FLOOD.

BASE FLOOD ELEVATION. BASEMENT.

DESIGN FLOOD.

DESIGN FLOOD ELEVATION.

DRY FLOODPROOFING.

EXISTING CONSTRUCTION.

(Ord. 10-2016 § 2 (part), 2016).

13.06.080 Amendments to Chapter 3, Subsection R322.1.7, Protection of Water Supply and Sanitary Sewage Systems.

Subsection R322.1.7 of the International Residential Code, 2015 Edition, is amended as follows:

R322.1.7 Protection of water supply and sanitary sewage systems.

New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems in accordance with the plumbing provisions of this code as amended by Chapter 51-51 WAC. New and replacement sanitary sewage systems shall be designed in accordance with the provisions of Chapter 8, ASCE 24 to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.

(Ord. 10-2016 § 2 (part), 2016).

13.06.085 Amendment to Chapter 3, Subsection R322.2.2.1, Installation of Openings.

Subsection R322.2.2.1 of the International Residential Code, 2015 Edition, is amended as follows:

R322.2.2.1.2 Enclosed area below design flood elevation and below grade on all sides.

The building official is authorized to approve the construction of **enclosed areas**, including crawl spaces for new construction and substantial improvements, **that are below the design flood elevation, and that are below grade on all sides when it has been demonstrated to the building official's satisfaction that the following criteria will be met:**

1. The velocity of floodwaters at the site do not **exceed 5 feet per second** during the 100 year flood event.
2. The interior grade of the enclosed space **below the design flood elevation** is not more than 2 feet below the lowest **adjacent exterior grade**.
3. The height of the **below grade enclosed space, measured from the lowest interior grade of the enclosed space to the highest point of the top of the foundation wall** is not more than 4 feet.
4. There are provisions for a **drainage system** that will remove floodwaters from the interior of the enclosed space **within a reasonable time after a flood event**. Such provisions may be accomplished by natural **drainage** through porous, well drained soils, gravity flow drainage systems, mechanical drainage systems, or other system approved by the building official. Soils reports, design calculations, or other information **adequate to substantiate the adequacy of the proposed drainage system** shall be submitted to the building official for his review.
5. The enclosed space meets all of the requirements of R322.2.2.
6. The enclosed space meets the requirements of FEMA/FIA TB 11-1.

(Ord. 10-2016 § 2 (part), 2016).

13.06.090 (Reserved).

(Ord. 10-2016 § 2 (part), 2016).

13.06.100 Amendments to Chapter 3, Subsection R322.2.3, Foundation Design and Construction.

Subsection R322.2.3 of the International Residential Code, 2015 Edition, is amended by the addition of Subsection R322.2.3.1 as follows:

R322.2.3.1 Residential construction within 100 feet of a floodway or ordinary high water mark.

Residential construction within 100 feet of a floodway or ordinary high water mark, if no floodway has been established, shall also meet the requirements of Yakima County Code ~~16A.05.28.010 and 020, 16C.05.28.010 and 020~~ as applicable, or 16D.05.28.010 and 020 as applicable.

(Ord. 10-2016 § 2 (part), 2016).

13.06.110 Amendments to Chapter 4, Subsection R408.7, Flood Resistance.

Subsection R408.7 of the International Residential Code, 2015 Edition, is amended as follows:

R408.7 Flood resistance.

For buildings located in flood hazard areas as established in Table R301.2(1):

1. Walls enclosing the under-floor space shall be provided with flood openings in accordance with Section R322.2.2.
2. The finished ground level of the under-floor space shall be equal to or higher than the outside finished ground level on at least one side.

Exception: Under-floor spaces that meet the requirements of FEMA/FIA TB 11-1 and R322.2.2.1 as amended in YCC13.06.085.

(Ord. 10-2016 § 2 (part), 2016).

Title 16
ENVIRONMENT

Chapters:

DIVISION I – SEPA AND RECLAMATION PROGRAM

- 16.04 State Environmental Policy Act**
- 16.16 Reclamation Program**

DIVISION II – FLOOD HAZARD*

* Editor's Note: As of October 1, 1995, the effective date of Ordinance 8-1995, the provisions formerly in Division II of Title 16 were repealed. Current regulations concerning flood hazard control are included in Chapters 16C.05.20 through 16C.05.72 of Title 16C, of this code, the Critical Areas Ordinance; except, that agricultural activities on designated agricultural and rural lands are regulated by flood hazard controls included in Chapters 16A.05.20 through 16A.05.72 of Title 16A, of this code.

(Ord. 4-2012 § 2 (Exh. A) (part), 2012: Ord. 13-1998 § 1 Exh. 1 (part), 1998: Ord. 6-1984 Part 5 § 3, 1984).

Article V. Using Existing Environmental Documents

16.04.200 Reserved.

(Ord. 4-2012 § 2 (Exh. A) (part), 2012: Ord. 13-1998 § 1 Exh. 1 (part), 1998: Ord. 6-1984 Part 6 § 1, 1984).

16.04.210 SEPA Public Information.

(1) Information and documents relating to SEPA activities for Yakima County shall be retained at the following location:

Yakima County Planning Division

128 N. 2nd Street Fourth Floor, County Courthouse

Yakima, WA 98901

Telephone: (509) 574-2300

(2) The County shall retain all documents required by the SEPA rules (WAC Chapter 197-11) and make them available in accordance with RCW Chapter 42.17.

(Ord. 4-2012 § 2 (Exh. A) (part), 2012: Ord. 13-1998 § 1 Exh. 1 (part), 1998: Ord. 6-1984 Part 6 § 2, 1984).

Article VI. SEPA and Agency Decisions

16.04.220 Reserved.

(Ord. 4-2012 § 2 (Exh. A) (part), 2012: Ord. 13-1998 § 1 Exh. 1 (part), 1998: Ord. 6-1984 Part 7 § 1, 1984).

16.04.230 Substantive Authority.

(1) The policies and goals set forth in this Chapter are supplementary to those in the existing authorization of Yakima County and as provided in RCW 43.21C.060.

(2) The County may attach conditions to a permit or approval for a proposal so long as:

(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this Chapter; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The County has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more policies in Subsections 4 and 5 of this Section and cited in the license or other decision document.

(3) The County may deny a permit or proposal on the basis of SEPA so long as:

(a) A finding is made that approving the proposal would result in probable significant adverse environment impacts that are identified in a FEIS or final SEIS prepared pursuant to this Chapter; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(c) The denial is based on one or more policies identified in Subsections 4 and 5 of this Section and identified in writing in the decision document.

(4) The County designates and adopts by reference the following policies as the basis for the County's exercise of authority pursuant to this Section.

(a) The County adopts by reference the general policies of the State Environmental Policy Act as set forth in RCW 43.21C.010 and RCW 43.21C.020 in order to achieve the environmental goals of the community.

(b) The County adopts by reference the goals, policies and objectives in the following County plans, codes, ordinances, and resolutions as they now exist or are hereafter amended or supplemented, as authorized by RCW 43.21C.060:

(i) The Yakima County Comprehensive Plan, with amendments and Supplements thereto;

(ii) Yakima County-wide Planning Policy (Reso. 553-2003), with related Interlocal Agreements for Growth Management Act Implementation in Yakima County;

(iii) Yakima Urban Area Comprehensive Plan, with amendments and supplements thereto:

1. West Valley Neighborhood Plan;
2. Terrace Heights Neighborhood Plan;

(iv) Yakima County Regional Shoreline Master Program:

1. YCC Title 16D;
2. WAC 173 Chapters 18-27 (Shoreline Management);

(v) YCC Title 2 Administration and Personnel:

1. Chapter 2.16, Planning Commission and Department;
2. Chapter 2.23, Hearing Examiner;

(vi) YCC Title 5 Business Licenses and Regulations;

(vii) YCC Title 6 Health, Welfare and Sanitation;

(viii) YCC Title 8 Public Peace, Safety and Morals;

(ix) YCC Title 9 Vehicles and Traffic;

(x) YCC Title 10 Roads, Highways and Bridges;

(xi) YCC Title 11 Parks;

(xii) YCC Title 12 Water and Sewer;

(xiii) YCC Title 13 Building and Construction;

(xiv) Zoning with amendments and Supplements thereto:

1. YCC Title 19 - Unified Land Development Code;

(xv) YCC Title 16 Environment:

1. Chapter 16.04 State Environmental Policy Act;
2. Chapter 16.16 Reclamation Program;

- (xvi) Critical Areas and Flood Hazard Regulations:
 - 1. YCC Title 16A;
 - 21. YCC Title 16C;
 - (xvii) YCC Title 16B Project Permit Administration;
 - (xviii) YCC Title 17 Urban Area Growth Policy;
 - (xix) YCC Title 20 Yakima County Fee Schedule;
 - (xx) Agreement for Wastewater Treatment and Disposal Service, as amended;
 - (xxi) Greenway Master Plan;
 - (xxii) Comprehensive Flood Hazard Master Plans (CFHMP), with amendments and Supplements thereto:
 - 1. Upper Yakima CFHMP;
 - 2. Naches River CFHMP;
 - 3. Ahtanum – Wide Hollow CFHMP;
 - (xxiii) Yakima County Solid Waste Master Plan, with amendments and supplements thereto;
 - (xxiv) Yakima County Capital Facilities Plan, with amendments and supplements thereto;
 - (xxv) Yakima Air Terminal Airport Master Plan, with amendments and supplements thereto.
- (5) The County adopts the following policies to support its substantive authority under SEPA:
- (a) A single development or land use though otherwise consistent with zoning and other County policies may create adverse impacts upon facilities and services, natural systems or the surrounding area when aggregated with the impacts of prior or other proposed development. It is the policy of the County to analyze such cumulative environmental impacts and condition or deny proposals to minimize or prevent adverse impacts in accordance with other provisions of this Chapter;
 - (b) In assessing the environmental impacts of a proposal and in determining the need for conditioning or denying a proposal in accordance with other provisions of this Chapter, the Responsible Official shall utilize SEPA, all policies, guidelines and regulations adopted pursuant to SEPA, federal, state and regional environmental quality standards, and the legislative enactments of the County, both specific and general, now in effect or enacted in the future;
 - (c) The County reserves the right to impose specific conditions upon any action or to deny action in conformance with the policies stated in this Chapter, so as to mitigate or prevent adverse environmental impacts.

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 4-2012 § 2 (Exhs. A, B) (part), 2012; Ord. 13-1998 § 1 Exh. 1 (part), 1998; Ord. 6-1984, Mod 1 § 2, 1986; Ord. 6-1984 Part 7 § 2, 1984).

16.04.240 SEPA Appeals.

Administrative SEPA appeals shall be heard by the Hearing Examiner at an open record public hearing as specified by YCC Section 16B.06.070, Project Permit Administration – Appeals of SEPA Determinations.

(Ord. 4-2012 § 2 (Exh. A) (part), 2012; Ord. 13-1998 § 1 Exh. 1 (part), 1998; Ord. 5-1996 § 6, 1996; Ord. 1-1990 § 13, 1990; Ord. 6-1984 Part 7 § 3, 1984).

-TITLE 16A

CRITICAL AREAS*

Chapters:

- 16A.01 — General Provisions**
- 16A.02 — Definitions**
- 16A.03 — Application and Review Procedures**
- 16A.04 — Stream Corridor System and Other Hydrologically Related Critical Areas**
- 16A.05.20 — Flood Hazard Areas — General Provisions**
- 16A.05.28 — Flood Hazard Protection Standards**
- 16A.05.32 — Floodway Fringe Uses**
- 16A.05.36 — Floodway Uses**
- 16A.05.40 — Nonconforming Uses and Structures**
- 16A.05.44 — Flood Hazard Protection Administration**
- 16A.05.48 — Elevation and Floodproofing Certification**
- 16A.05.52 — Variances**
- 16A.05.72 — Map Correction Procedures**
- 16A.06 — Enforcement and Penalties**
- Appx. A — Wetland Rating System**
- Appx. B — Designated Shoreline Lakes, Ponds and Type 1 Streams**
- Appx. C — Designated Type 2 Stream Corridors**

* — Editor's Note: Ord. 13-2007 adopts Title 16C, Critical Areas, which applies to all unincorporated lands under Yakima County's land use jurisdiction, except for lands under jurisdiction of the Shoreline Management Act and lands subject to the requirements of Substitute Senate Bill 5248 for agricultural activities conducted on agricultural and rural lands. The provisions of this title, Title 16A, are retained for the regulation of agricultural activities on designated agricultural and rural lands. Ord. 14-2007, codified as Title 16D of this code, adopts the Shoreline Master Program, which shall regulate critical areas within shoreline jurisdiction.

~~Chapter 16A.01~~
GENERAL PROVISIONS

Sections:

- ~~16A.01.01 Title and Authority.~~
- ~~16A.01.02 Language Interpretation.~~
- ~~16A.01.03 Purpose of Provisions.~~
- ~~16A.01.04 Intent.~~
- ~~16A.01.05 Applicability.~~
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16A.01.01 Title and Authority.

Title 16A is established pursuant to RCW 36.70A.060 (Growth Management Act), RCW Chapter 90.58 (Shoreline Management Act), RCW Chapter 43.21C (State Environmental Policy Act), and federal requirements for eligibility in the National Flood Insurance Program, pursuant to the Code of Federal Regulations (CFR). This title shall be known as the "Critical Areas Ordinance of Yakima County, Washington."

(Ord. 8-1995 §1 (1.01), 1995).

16A.01.02 Language Interpretation.

Unless specifically defined in Chapter 16A.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.

(Ord. 8-1995 §1 (1.02), 1995).

16A.01.03 Purpose of Provisions.

The purpose of Title 16A is to establish a single, uniform system of procedures and standards to be applied to development within designated critical areas of unincorporated Yakima County.

(Ord. 8-1995 §1 (1.03), 1995).

16A.01.04 Intent.

Title 16A establishes policies, standards, and other provisions pertaining to development of designated critical areas. Stream corridors, flood hazard areas, water resource and wetland areas, and wildlife habitat areas constitute part of 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 which comprise an important part of the county's natural resource base. The policies, standards and procedures of this title are intended to:

- (1) — 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;
- (2) — Preclude uses and development which are incompatible with critical areas;
- (3) — Prevent further degradation of critical areas;

- (4) — ~~Conserve, protect and, where feasible, restore essential or important natural resources.~~
 - (5) — ~~Protect the public health, safety and general welfare;~~
 - (6) — ~~Further the goals and objectives of the Yakima County Comprehensive Plan and all of its elements;~~
 - (7) — ~~Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A), the Shoreline Management Act (RCW Chapter 90.58), and the National Flood Insurance Program.~~
- (Ord. 8-1995 §1 (1.04), 1995).

16A.01.05 — Applicability.

(1) — ~~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 by the board of county commissioners and upon any shoreline of the state as specified in Chapter 173-18 WAC, and upon any land mapped as a flood hazard area under the National Flood Insurance Program.~~

(2) — ~~The Yakima County Unified Development Code (YCC Title 19) shall remain in full force and effect as it applies to a designated critical area. Wherever the requirements of Title 16A are at variance with the requirements of Title 19 or any other lawfully adopted rules or regulations, the most restrictive standards shall govern.~~

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (1.05), 1995).

16A.01.06 — Exemptions from Critical Area Development Authorization.

The following development activities shall not require a critical area development authorization under Chapters 16A.03 and 16A.04; however, development is subject to the provisions of Chapters 16A.05.20 through 16A.05.72 if located within an area of special flood hazard.

- (1) — ~~Development and construction for which the total cost or fair market value is two thousand five hundred dollars or less, provided such development and construction does not involve excavation, fill, or other work which is not consistent with the functional properties of stream corridors and other hydrologically related critical areas as set forth in Section 16A.04.02 of this title, and provided such development and construction does not materially interfere with the public use of the water or the shorelines of the state.~~
- (2) — ~~Construction or practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, and/or alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;~~
- (3) — ~~Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment;~~
- (4) — ~~Emergency construction necessary to protect property from damage by the elements, in accordance with Section 16A.01.10 of this chapter;~~
- (5) — ~~Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee or contract purchaser of a single family residence, for which the cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars;~~

(6) — ~~The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with the normal public use of the surface of the water; site investigative work such as surveys, soil logs, percolation tests and other related activities;~~

(7) — ~~The operation, maintenance or construction of canals, waterways, drains, reservoirs, or other manmade facilities that now exist or are hereinafter created or developed as a part of an irrigation system;~~

(8) — ~~Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of the 1975 Amendatory Act of the Shoreline Management Act which were created, developed, or utilized primarily as a part of an agricultural drainage and diking system;~~

(9) — ~~Construction or modification of navigational aids such as channel markers and anchor buoys;~~

(10) — ~~Maintenance of aboveground utility transmission lines and poles;~~

(11) — ~~Those activities under the regulation of the Forest Practices Act on which the county cannot condition a Forest Practices Application;~~

(12) — ~~Any streamside management project associated with a single family residence or agricultural activity, including residential landscaping, designed to achieve, through the use of natural vegetation and/or bioengineering alternatives, the functional properties outlined in Section 16A.04.02 and carried out in conformance with a conservation plan or design developed through a Yakima County Conservation District, or by a qualified professional certified to develop such plans or designs according to best management practices.~~

(Ord. 8 1995 §1 (1.06), 1995).

16A.01.07 — Exemptions — RCW Chapter 90.58 — Procedural requirements.

The following development activities are not subject to the procedural requirements of RCW 90.58.140 (Shoreline Substantial Development Permit) and Section 16A.03.09(5) of this title but are subject to all other provisions of this title.

(1) — ~~Construction by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this title;~~

(2) — ~~Construction of the normal protective bulkhead common to single family residences.~~

(Ord. 8 1995 §1 (1.07), 1995).

16A.01.08 — Exemptions — Construed Narrowly.

Exemptions shall be construed narrowly and any exempted development shall be consistent with the policies and provisions of the State Shoreline Management Act and this title.

(Ord. 8 1995 §1 (1.08), 1995).

16A.01.09 — Formal Letter of Exemption.

A formal letter of exemption shall be provided where an activity is exempt under the Shoreline Management Act but is subject to a U.S. Corps of Engineers Section 10 permit or a Section 404 permit. The letter of exemption shall be provided to the applicant, the Corps of Engineers, and the State Department of Ecology.

(Ord. 8 1995 §1 (1.09), 1995).

16A.01.10 — Emergency Actions.

(1) — An "emergency" is an unanticipated and imminent threat to the public health and safety, to private or public property, or to the environment which requires immediate action or response within a time period too brief to allow full compliance with this title. The following criteria must exist to qualify any action under an emergency provision:

(a) ~~There must be an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation arising from a natural condition or technical incident.~~

(b) ~~The emergency response must be confined to the action necessary to protect life or property from damage.~~

(c) ~~The scope of the emergency response must be limited to the work necessary to relieve the immediate threat.~~

(d) ~~The emergency response applies only to the period of time in which the actual emergency exists.~~

(2) ~~As soon as the emergency is deemed abated by appropriate authorities, compliance with the requirements of this title is required.~~

(Ord. 8-1995 §1 (1.10), 1995).

16A.01.11 — Administrative Authority.

~~The planning division of the Yakima County public services department shall be responsible for the general administration of this title. The planning official or designee shall serve as administrative official of this title, except as noted in Chapters 16A.05.20 through 16A.05.72. The planning official shall establish procedures for implementation of this title.~~

(Ord. 1-2005 § IV, 2005; Ord. 8-1995 §1 (1.11), 1995).

16A.01.12 — 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.~~

(Ord. 8-1995 §1 (1.12), 1995).

~~Chapter 16A.02~~

DEFINITIONS

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~~16A.02.001 Definitions Generally.~~

~~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 Title 13 of this code and the International Codes enacted under said Title 13, statutes and Washington Administrative Code provide greater detail for purposes of administering this title.~~

~~(Ord. 1-2005 § V, 2005; Ord. 8-1995 §1 (2.001), 1995).~~

~~16A.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.~~

(Ord. 8-1995 §1 (2.005), 1995).

16A.02.010 Adjacent.

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

(Ord. 8-1995 §1 (2.010), 1995).

16A.02.012 Administrative Official.

"Administrative official" means the duly appointed planning director or his designee. Synonymous with "administrator" or "director."

(Ord. 8-1995 §1 (2.012), 1995).

16A.02.015 Agricultural Activity.

"Agricultural activity" means the tilling of soil, raising of crops, horticulture, viticulture, floriculture, keeping or raising of livestock, and farm-oriented storage for commercial value.

(Ord. 8-1995 §1 (2.015), 1995).

16A.02.020 Agricultural Land.

"Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock.

(Ord. 8-1995 §1 (2.020), 1995).

16A.02.030 Applicant.

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

(Ord. 8-1995 §1 (2.030), 1995).

16A.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.

(Ord. 8-1995 §1 (2.035), 1995).

16A.02.040 Aquifer Recharge Area.

"Aquifer recharge area" means an area in which the principal movement of water is the downward seepage of surface waters into groundwater by:

- (1) The infiltration of water from the surface into the soil or other rock materials that lie directly below the surface;
- (2) The downward movement of water through the materials that comprise the zone of aeration; and
- (3) The delivery of water into the zone of saturation where it becomes groundwater.

(Ord. 8-1995 §1 (2.040), 1995).

16A.02.042 Base Flood.

"Base flood" means the flood having a 1-percent chance of being equaled or exceeded in any given year. (Ref. IBC-1612.2).

(Ord. 1-2005 § VI, 2005).

16A.02.045 ~~Base Flood Elevation.~~

~~"Base flood elevation" 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).~~

~~(Ord. 1 2005 § VII, 2005; Ord. 8 1995 §1 (2.045), 1995).~~

16A.02.047 ~~Basement.~~

~~"Basement" means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 1612.2).~~

~~(Ord. 1 2005 § VIII, 2005).~~

16A.02.050 ~~Beach.~~

~~"Beach" means a sloping zone of sedimentary material extending landward from the low water line to a point where there is a distinct break in material or form (e.g., a foredune, cliff, or bank) or to a line of permanent vegetation.~~

~~(Ord. 8 1995 §1 (2.050), 1995).~~

16A.02.055 ~~Bed.~~

~~"Bed" means the material extending toward the water from the ordinary high water mark and which supports streams, lakes, and vegetated shallows.~~

~~(Ord. 8 1995 §1 (2.055), 1995).~~

16A.02.060 ~~Bedrock.~~

~~"Bedrock" means in-place solid rock.~~

~~(Ord. 8 1995 §1 (2.060), 1995).~~

16A.02.065 ~~Berm.~~

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

~~(Ord. 8 1995 §1 (2.065), 1995).~~

16A.02.067 ~~Best Management Practices.~~

~~"Best management practices" means conservation practices or systems of practices and management measures that:~~

~~(1) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment;~~

~~(2) Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of hydrologically related critical areas.~~

~~(Ord. 8 1995 §1 (2.067), 1995).~~

16A.02.070 ~~Borrow.~~

~~"Borrow" means earth material acquired from an off-site location for use in grading on a site.~~

~~(Ord. 8 1995 §1 (2.070), 1995).~~

16A.02.075 ~~Breakwater.~~

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

~~(Ord. 8 1995 §1 (2.075), 1995).~~

16A.02.080 Bulkhead.

"Bulkhead" means a structure or partition placed on a bank or bluff to retain or prevent sliding of the land and protect the inland area from wave action or currents.

(Ord. 8-1995 §1 (2.080), 1995).

16A.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.

(Ord. 8-1995 §1 (2.085), 1995).

16A.02.090 Channel Bank.

"Channel bank" means the sloping land bordering a channel. The bank has a steeper slope than the bottom of the channel and is normally steeper than upland areas adjacent to the channel.

(Ord. 8-1995 §1 (2.090), 1995).

16A.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

(Ord. 1-2005 § XI, 2005; Ord. 8-1995 §1 (2.092), 1995).

16A.02.095 Classification.

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

(Ord. 8-1995 §1 (2.095), 1995).

16A.02.100 Clearing.

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site which exposes the earth's surface of the site.

(Ord. 8-1995 §1 (2.100), 1995).

16A.02.110 Compaction.

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

(Ord. 8-1995 §1 (2.110), 1995).

16A.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.

(Ord. 8-1995 §1 (2.115), 1995).

16A.02.120 Construction.

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

(Ord. 8-1995 §1 (2.120), 1995).

16A.02.125 Designated.

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

(Ord. 8-1995 §1 (2.125), 1995).

16A.02.130 Department.

"Department" means the Yakima County department of public services.

(Ord. 1-2005 § IX, 2005; Ord. 8-1995 §1 (2.130), 1995).

16A.02.135 Development.

"Development" means any use as defined under RCW 90.58.030(3)(d), or the division of land into lots or parcels in accordance with the county Subdivision Ordinance, and any 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 16A.05.20 through 16A.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 or drilling and works defined in this chapter.

(Ord. 8-1995 §1 (2.135), 1995).

16A.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.

(Ord. 8-1995 §1 (2.140), 1995).

16A.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.

(Ord. 8-1995 §1 (2.145), 1995).

16A.02.150 Dredging.

"Dredging" means removal of earth from the bed of a stream, lake, or vegetated shallows for the purpose of increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill materials.

(Ord. 8-1995 §1 (2.150), 1995).

16A.02.160 Earth material.

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

(Ord. 8-1995 §1 (2.160), 1995).

16A.02.170 Enhance.

"Enhance" means to strengthen any of the basic stream corridor functional properties listed in Section 16A.04.02 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.

(Ord. 8-1995 §1 (2.170), 1995).

16A.02.180 Erosion.

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

(Ord. 8-1995 §1 (2.180), 1995).

16A.02.190 Excavation.

"Excavation" means the mechanical removal of earth material.

(Ord. 8-1995 §1 (2.190), 1995).

16A.02.200—Fill.

“Fill” means any material, such as (by way of illustration) earth, clay, sand, 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.

(Ord. 8-1995 §1 (2.200), 1995).

16A.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.

(Ord. 8-1995 §1 (2.205), 1995).

16A.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.

(Ord. 8-1995 §1 (2.206), 1995).

16A.02.207—Flood Insurance Rate Map.

“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.

(Ord. 8-1995 §1 (2.207), 1995).

16A.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.

(Ord. 8-1995 §1 (2.208), 1995).

16A.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.

(Ord. 8-1995 §1 (2.210), 1995).

16A.02.215—Flood prone.

“Flood prone” means a land area adjoining a river, stream, watercourse or lake 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 soils, geological evidence, or other data.

(Ord. 8-1995 §1 (2.215), 1995).

16A.02.216—Floodproofing.

“Floodproofing” 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.

(Ord. 8-1995 §1 (2.216), 1995).

16A.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.

(Ord. 8-1995 §1 (2.220), 1995).

16A.02.225 Floodway Fringe.

"Floodway fringe" 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.

(Ord. 8-1995 §1 (2.225), 1995).

16A.02.230 Forest Land.

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

(Ord. 8-1995 §1 (2.230), 1995).

16A.02.240 Forest Management.

"Forest management" means activities conducted on or directly pertaining to forest land relating to the growing, managing, harvesting, and interim storage of merchantable timber for commercial value.

(Ord. 8-1995 §1 (2.240), 1995).

16A.02.245 Hydrologically Related Critical Areas (HRCAs).

"Hydrologically related critical areas" or "HRCAs" include all those areas within Yakima County which are important and deserving of protection by nature of their value for the functional properties found in Section 16A.04.02. HRCAs within Yakima County include all shorelines of the state as found in RCW Chapter 90.58, all wetlands as defined by this title, all areas within the one hundred year floodplain and all other stream corridor segments as designated by the Stream Typing System found in Chapter 16A.04.

(Ord. 8-1995 §1 (2.245), 1995).

16A.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.

(Ord. 8-1995 §1 (2.250), 1995).

16A.02.255 Grading.

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

(Ord. 8-1995 §1 (2.255), 1995).

16A.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.

(Ord. 8-1995 §1 (2.260), 1995).

16A.02.270 Intermittent stream.

"Intermittent stream" means channels which naturally carry water part of the year and are dry the other part. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

(Ord. 8-1995 §1 (2.270), 1995).

16A.02.280 Long-term Commercial Significance.

"Long-term commercial significance" means the growing capacity, productivity, and soil composition of land which makes it suitable for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land.

(Ord. 8-1995 §1 (2.280), 1995).

16A.02.281 – Lowest Floor.

~~“Lowest floor” 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 nonelevation design requirements of this title.~~

~~(Ord. 8-1995 §1 (2.281), 1995).~~

16A.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.~~

~~(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (2.282), 1995).~~

16A.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 Title 19 of this Code.~~

~~(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (2.283), 1995).~~

16A.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.~~

~~(Ord. 8-1995 §1 (2.284), 1995).~~

16A.02.285 – Minerals.

~~“Minerals” means gravel, sand and metallic and nonmetallic substances of commercial value.~~

~~(Ord. 8-1995 §1 (2.285), 1995).~~

16A.02.290 – Mining.

~~“Mining” means the removal of naturally occurring minerals and materials from the earth for commercial value.~~

~~(Ord. 8-1995 §1 (2.290), 1995).~~

16A.02.292 – Mitigation.

~~“Mitigation” means:~~

- ~~(1) — Avoiding the impact altogether by not taking a certain action or parts of an action;~~
- ~~(2) — Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;~~
- ~~(3) — Rectifying the impact by repairing, rehabilitating or restoring the affected environment;~~

(4) ~~Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;~~

(5) ~~Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;~~

(6) ~~Monitoring the impact and taking appropriate corrective measures.~~

(Ord. 8-1995 §1 (2.292), 1995).

~~16A.02.295 Native.~~

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

(Ord. 8-1995 §1 (2.295), 1995).

~~16A.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.~~

(Ord. 8-1995 §1 (2.300), 1995).

~~16A.02.302 New Construction.~~

~~"New construction," for purposes of application of Chapter 16A.05, 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 this title shall be used for defining the term new construction as it applies to all other critical areas requirements established under this title by Ordinance 8-1995.~~

(Ord. 1-2005 § XII, 2005; Ord. 8-1995 §1 (2.302), 1995).

~~16A.02.303 Nonconforming Structure.~~

~~"Nonconforming structure" means a structure which was legally constructed prior to October 1, 1995, the effective date of this title, 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 floodproofing requirements.~~

(Ord. 8-1995 §1 (2.303), 1995).

~~16A.02.304 Nonconforming Use.~~

~~"Nonconforming use" means a building, structure or land use 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 floodproofing requirements of this title and which would not be permitted as a new use under the terms of this title.~~

(Ord. 8-1995 §1 (2.304), 1995).

~~16A.02.305 Ordinary High Water Mark.~~

~~"Ordinary high water mark" 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.~~

(Ord. 8-1995 §1 (2.305), 1995).

~~16A.02.310 Perennial Stream.~~

~~"Perennial stream" means stream channels which carry water the year round.~~

(Ord. 8-1995 §1 (2.310), 1995).

16A.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.~~

~~(Ord. 8-1995 §1 (2.230), 1995).~~

16A.02.322 – Recreation Vehicle.

~~For floodplain management purposes, “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.~~

~~(Ord. 8-1995 §1 (2.322), 1995).~~

16A.02.325 – Restore.

~~“Restore” means to re-establish the basic stream corridor functional properties listed in Section 16A.04.02 that have been lost or destroyed through natural events or human activity.~~

~~(Ord. 8-1995 §1 (2.235), 1995).~~

16A.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.~~

~~(Ord. 8-1995 §1 (2.330), 1995).~~

16A.02.340 – Riprap.

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

~~(Ord. 8-1995 §1 (2.340), 1995).~~

16A.02.343 – Qualified Consultant.

~~“Qualified consultant” means any of the following, as determined by the sole discretion of the administrative official:~~

- ~~(1) — “Qualified wetland scientist” means an individual who is registered as a Certified Wetland Delineator or a Certified Wetland Scientist by either the U.S. Army Corps of Engineers or by the Society of Wetland Scientists, or who has the credentials qualifying them for certification by these two organizations;~~
- ~~(2) — “Qualified soil scientist” means an individual who is registered as a Certified or Registered Professional Soil Scientist by either the American Registry of Certified Professionals in Agronomy, Crops and Soils (ARCPACS) or by the National Society of Consulting Soil Scientists, or who has the credentials qualifying them for certification by these two organizations;~~
- ~~(3) — “Qualified sediment control specialist” means an individual who is registered as a Certified Professional in Sediment and Erosion Control by the Soil and Water Conservation Society in cooperation with ARCPACS or who has the credentials qualifying them for joint certification by these two organizations.~~

~~(Ord. 8-1995 §1 (2.343), 1995).~~

16A.02.345 ~~Scour.~~

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

~~(Ord. 8-1995 §1 (2.345), 1995).~~

16A.02.355 ~~Shoreline.~~

~~"Shoreline," as used in the title, means those water areas, the associated wetlands, and the lands underlying them that are subject to the State Shoreline Management Act and are designated as a critical area by Yakima County.~~

~~(Ord. 8-1995 §1 (2.355), 1995).~~

16A.02.357 ~~Shoreline Environments.~~

~~The following four environments comprise "Shoreline Environments":~~

- ~~(1) — Urban Environment. This environment is characterized by high intensity land uses, high land values, major public and private capital investments, and/or few biophysical development limitations. The management objective is one of optimum future utilization of land and public investment. In view of the intensity of present and future development and consequent population densities, there is a correspondingly high requirement for open space and access to the water in this environment.~~
- ~~(2) — Rural Environment. This environment is characterized by intensive agricultural and recreational uses, moderate land values, lower public and private capital investment, and/or some biophysical development limitations. The management objectives are to protect agricultural land, maintain open space, and provide for recreational uses compatible with agricultural production.~~
- ~~(3) — Conservancy Environment. This environment is characterized by very low intensity land uses primarily related to natural resources use and diffuse recreational development, relatively low land values, relatively minor public and private capital investment, and/or relatively major biophysical development limitations. Management objectives are oriented toward establishing a balance between sustained yield natural resource utilization and low density recreational uses in this environment, with restriction of development in hazardous areas.~~
- ~~(4) — Natural Environment. This environment is characterized by severe biophysical limitations, presence of some unique natural or cultural features intolerant of intensive human use, and/or its value is retained only in its natural condition. Management objectives are oriented toward preserving unique features, restricting activities which may degrade the actual or potential value of this environment, and severely restricting development in hazardous areas.~~

~~(Ord. 8-1995 §1 (2.357), 1995).~~

16A.02.360 ~~Shoreline Stabilization.~~

~~"Shoreline stabilization" means the construction or modification of bulkheads, retaining walls, dikes, levies, riprap, and other structures along the shoreline, for the purpose of controlling stream undercutting or stream erosion.~~

~~(Ord. 8-1995 §1 (2.360), 1995).~~

16A.02.365 ~~Slope.~~

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

~~(Ord. 8-1995 §1 (2.365), 1995).~~

16A.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.~~

~~(Ord. 8-1995 §1 (2.366), 1995).~~

16A.02.367 Special Flood Hazard Area.

"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.

(Ord. 8-1995 §1 (2.367), 1995).

16A.02.368 Start of Construction.

"Start of construction" 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.

(Ord. 8-1995 §1 (2.368), 1995).

16A.02.370 Stream.

"Stream" means water contained within a channel, either perennial or intermittent, in which fish may spawn, reside, or through which they may pass. Streams include natural watercourses modified by man. They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses.

(Ord. 8-1995 §1 (2.370), 1995).

16A.02.380 Stream Corridor.

"Stream corridor," as used in this title, means those naturally occurring shoreline and wetland features listed and described in Chapter 16A.04 and related appendices to this title.

(Ord. 8-1995 §1 (2.380), 1995).

16A.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.

(Ord. 8-1995 §1 (2.390), 1995).

16A.02.395 Substantial Improvement.

(1) "Substantial improvement" 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:

(a) Before the improvement or repair is started; or

(b) Before the damage occurred to a structure that has been damaged and is being restored.

(2) 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.

(3) ~~The total value of all improvements to an individual structure undertaken subsequent to October 1, 1995, the effective date of this title, shall be used to define "substantial improvement" for said structure. The term does not, however, include either:~~

- ~~(a) 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~~
- ~~(b) Any alteration of a structure listed on the National Register or Historic Places or a state inventory of historic places.~~

~~(Ord. 8-1995 §1 (2.395), 1995).~~

16A.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.~~

~~(Ord. 8-1995 §1 (2.400), 1995).~~

16A.02.410 Vegetated Shallows.

~~"Vegetated shallows" means permanently inundated areas that under normal conditions support communities of rooted aquatic vegetation.~~

~~(Ord. 8-1995 §1 (2.410), 1995).~~

16A.02.415 Vegetative Buffer.

~~"Vegetative buffer" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of wetland which provides adequate soil conditions and native vegetation for the performance of the basic functional properties of a stream corridor and other hydrologically related critical areas as set forth in Chapter 16A.04.~~

~~(Ord. 8-1995 §1 (2.415), 1995).~~

16A.02.425 Wetland.

(1) ~~"Wetland" or "wetlands" means that area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and 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 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands specifically intentionally created from nonwetland areas to mitigate conversion of wetlands, if permitted by the county.~~

(2) ~~This definition is taken from the statutory definition at RCW 36.70A.030(17), and specifically exempts a number of intentionally created wetlands, including but not limited to those related to irrigation systems. 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 an artificial wetland intentionally created from a nonwetland site, and therefore do not constitute wetlands.~~

(3) ~~Furthermore, the phrase "normal circumstances" in this definition shall be defined as set forth by the United States Army Corps of Engineers in its regulatory Guidance Letter 90-7 dated September 26, 1990, which is incorporated herein by reference. The letter deals with prior converted farmlands which may have been cropped prior to December 23, 1985.~~

(4) ~~For purposes of administering the Shoreline Management Act, wetland also means those lands extending landward in all directions as measured on a horizontal plane for a specified distance from the ordinary high water mark; floodways and contiguous floodplain areas landward for a specified distance from such floodways; and all~~

~~marshes, bogs, swamps, and river deltas associated with any stream or lake designated as a critical area under this title, are also included as wetlands within this definition under RCW 90.58.030 and WAC 173-22-040(2).~~

~~(Ord. 8-1995 §1 (2.425), 1995).~~

~~16A.02.435 Wildlife habitat.~~

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

~~(Ord. 8-1995 §1 (2.435), 1995).~~

~~16A.02.440 Works.~~

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

~~(Ord. 8-1995 §1 (2.440), 1995).~~

~~Chapter 16A.03~~

~~APPLICATION AND REVIEW PROCEDURES~~

Sections:

- ~~16A.03.01 — Critical Area Development Authorization Required.~~
- ~~16A.03.02 — Preapplication Conference.~~
- ~~16A.03.03 — Technical Assistance Conference.~~
- ~~16A.03.04 — Critical Area Development Authorization — Application Submittal.~~
- ~~16A.03.05 — Critical Area Development Authorization — Review Procedure.~~
- ~~16A.03.06 — Authorization Decisions — Basis for Action.~~
- ~~16A.03.07 — Critical Area Project Types.~~
- ~~16A.03.08 — Determination of Authorization Process.~~
- ~~16A.03.09 — Substantial Development Process.~~
- ~~16A.03.10 — Standard Development Process.~~
- ~~16A.03.11 — Flood-prone Project Review Process.~~
- ~~16A.03.12 — Conditional Approval of Critical Area Development Authorization.~~
- ~~16A.03.13 — Administrative Adjustment of Standards.~~
- ~~16A.03.14 — Appeals.~~
- ~~16A.03.15 — Modifications to Approved Uses or Developments.~~
- ~~16A.03.16 — Fees and Charges.~~

16A.03.01 — Critical Area Development Authorization Required.

- (1) ~~No new development, construction or use shall occur within a designated critical area without obtaining a critical area development authorization in accordance with the provisions of this title.~~
- (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. In order to avoid overlap and duplication of effort in the permitting process, any nonexempt development, construction or use occurring within a designated critical area shall be processed according to the provisions of this chapter.~~
- (3) ~~Approval of a critical area development authorization shall be in addition to, and not a substitute for, any other development permit or authorization required by Yakima County. Approval of a critical area development authorization shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.~~
- (4) ~~In lieu of the process set forth in this chapter, the review procedures of Chapters 16A.05.20 through 16A.05.72 may be followed for projects which are proposed within the area of special flood hazard established under Chapters 16A.05.20 through 16A.04.72 which are otherwise exempt according to the provisions of this title, do not involve substantial development as defined, where wetlands are not present and the preliminary site plan indicates that the project will comply with the stream corridor buffers set forth in Sections 16A.04.23 and 16A.04.24.~~

(Ord. 8 1995 §1 (3.01), 1995).

16A.03.02 — Preapplication Conference.

- (1) ~~Any new development, construction or use proposed to be located partially or wholly within a designated hydrologically related critical area shall be subject to a preapplication conference. The planning department shall schedule a preapplication conference for as soon as is reasonably possible to allow attendance by the project proponent and necessary department staff. To assist in project review and discussion, prior to the preapplication 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.~~
- (2) ~~The preapplication conference is intended to establish the following:~~
 - (a) ~~The scope of the project and the critical area features involved or potentially impacted;~~

- (b) — ~~The degree to which the project may affect or impair a designated critical area and the level of project review required to address the provisions of this title;~~
- (c) — ~~Other permits and authorizations which the project proponent may need to obtain;~~
- (d) — ~~Whether the project will be processed through the critical area 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.~~
- (e) — ~~Resources and technical assistance available to assist the proponent in meeting the provisions of this title and any applicable rules and regulations of other agencies and jurisdictions;~~
- (f) — ~~Whether there is a need for a preliminary site assessment or a technical assistance conference to better define the critical area issues and alternatives;~~
- (g) — ~~Whether the project will be processed as a substantial or standard development project or as a flood-prone project as provided for in Section 16A.03.01(d);~~
- (h) — ~~A preliminary site assessment may be scheduled in the field to determine the applicability of the vegetative buffering requirements of this title to the project, based on information contained in the preliminary site plan.~~

(Ord. 8-1995 §1 (3.02), 1995).

16A.03.03 — Technical Assistance Conference.

(1) — ~~If requested by the project proponent or otherwise determined necessary, the planning 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 planning department will provide the potential participants with a project summary compiled from the preapplication 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.~~

(2) — ~~The purpose of the technical assistance conference will be to:~~

- (a) — ~~Confirm and define the requirements of any other applicable local, state or federal regulations;~~
- (b) — ~~Clarify any identified procedural or regulatory conflicts and define the alternative courses of action available to the applicant in addressing project requirements;~~
- (c) — ~~Determine whether compliance with other existing statutes and regulations will adequately address the provisions of this title;~~
- (d) — ~~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;~~
- (e) — ~~Provide the proponent with guidance concerning project modifications or site enhancements that would eliminate or minimize impacts to the critical area;~~
- (f) — ~~Provide the proponent with alternatives for securing data, information, or assistance necessary to the project but not available through the preapplication conference;~~
- (g) — ~~Determine whether a special study is necessary, and if so, the qualifications, skills and expertise required of a consultant to perform the special study.~~

(Ord. 8-1995 §1 (3.03), 1995).

16A.03.04 — Critical Area Development Authorization — Application Submittal.

(1) — Application for a critical area development authorization shall be made on forms provided by the planning department. The application shall be accompanied by the required application fee, together with plans drawn to scale showing the actual shape and dimensions of the property site to be used, existing and proposed structures, excavation, fill, drainage facilities, topography, slope, and 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. The site plan map should also show the approximate location of any of the following features applicable to the project site: stream channels, drainage ways, roads, utilities, lakes, ponds, vegetated shallows, wetland areas, ordinary high water mark, floodway, and floodway fringes, as identified in available records.

(2) — To be accepted as complete, a critical area development authorization application must include:

- (a) — A fully completed, signed application form;
- (b) — The associated application fee;
- (c) — All maps, drawings and other information or data specified by this title or requested on the basis of the preapplication conference, preliminary site assessment or technical assistance conference; and
- (d) — An environmental checklist if the project is subject to review under the State Environmental Policy Act (SEPA).

(Ord. 8-1995 §1 (3.04), 1995).

16A.03.05 — Critical Area Development Authorization — Review Procedure.

(1) — Upon submittal and acceptance of a completed critical area development authorization application, the administrative official shall make every effort to complete the project evaluation within twenty working days unless the review and approval procedures of another applicable development permit, authorization or statutory requirement necessitate a longer evaluation period. The evaluation may include a site investigation of the property, consultation with other persons or agencies, notification to all landowners within three hundred feet of the exterior boundaries of the development site together with an invitation for written comment on the proposal, or a review of any pertinent information that will help determine the potential impact of the project on the critical area feature.

(2) — Based upon the project evaluation, the administrative official shall take one of the following actions:

- (a) — Grant the critical area development authorization;
- (b) — Grant the critical area development authorization with conditions to mitigate impacts to the critical area feature(s) present on or adjacent to the project site;
- (c) — Return the application for revisions with an explanation of changes needed to the proposal to eliminate or reduce impacts to the critical area feature(s);
- (d) — Deny the critical area development authorization.

(3) — The decision by the administrative official on the critical area development authorization shall include written findings and conclusions stating the reasons upon which the decision is based.

(Ord. 8-1995 §1 (3.05), 1995).

16A.03.06 — Authorization Decisions — Basis for Action.

The action of the administrative official on any critical area development authorization shall be based upon the following criteria:

- (1) — Impact of the project to critical area features on the property or on abutting or adjacent properties;
- (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 RCW Chapter 36.70A (Growth Management Act), RCW Chapter 90.58 (Shoreline Management Act), RCW Chapter 43.21C (State Environmental Policy Act), and other applicable state statutes;~~
- (5) ~~Requirements of other applicable local, state or federal permits or authorizations, including compliance with flood hazard mitigation requirements of Chapters 16A.05.20 through 16A.05.72;~~
- (6) ~~Adequacy of the information provided by the applicant or available to the planning department;~~
- (7) ~~Ability of the project to satisfy the purpose and intent of this title.~~

(Ord. 8-1995 §1 (3.06), 1995).

16A.03.07 — Critical Area Project Types.

Any development, construction, or use subject to the provisions of this title shall be processed as one of three project types:

- (1) ~~Substantial Development Projects. Substantial development projects include any development subject to RCW Chapter 90.58, the Shoreline Management Act, and work which the administrative official determines may represent any of the following: long term or serious short term impacts to the physical features or critical functional properties of the natural system; uses which may be inconsistent or incompatible with existing uses currently in place on abutting and adjacent properties; work which may result in or increase the risk or frequency of hazard to life or property; work involving authorizations by two or more jurisdictions; work which permanently alters any prescribed public use or right of way or otherwise represents significant public interest or concern.~~
- (2) ~~Standard Development Projects. Standard development projects include any development which involves limited, one-time actions resulting in only minor changes or alterations to the physical features or functional properties and which does not result in a need for subsequent and continuous maintenance; work which is largely confined within the external boundaries of the property owned by the applicant; work which is generally consistent and compatible with existing uses currently in place on abutting and adjacent properties; other work which the administrative official determines lacks the scope and complexity, or the degree of public interest and concern to qualify as a substantial development project.~~
- (3) ~~Flood-prone Projects. Flood-prone projects, include developments which are proposed within the area of special flood hazard established under Chapters 16A.05.20 through 16A.05.72, and which are exempt according to the provisions of this title, do not involve substantial or standard development as defined, where wetlands are not present and the preliminary site assessment indicates that the project complies with applicable vegetative buffers as set forth in Chapter 16A.04.~~

(Ord. 8-1995 §1 (3.07), 1995).

16A.03.08 — Determination of Authorization Process.

The administrative official shall determine from the application and other available information whether the application is to be processed as a substantial development, standard development or flood-prone project. The administrative official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing.

(Ord. 8-1995 §1 (3.08), 1995).

16A.03.09 — Substantial Development Process.

Any ~~nonexempt~~ project determined to be a substantial development shall be processed in accordance with this section.

- (1) ~~Project Notice.~~
 - (a) ~~Publication of Notice. A notice shall be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the project is proposed.~~

Such notice shall include, as a minimum, the name of the applicant, applicant's relationship to the property, a general description of project location together with a legal description to the nearest quarter section, a brief description of the proposed action, an invitation to comment, the name and address to which comments are to be mailed, the comment period, and the final date written comment will be accepted.

(b) — Mailing of Notice. At the same time as the publication of notice, a copy of the notice shall be mailed to the latest recorded real property owners as shown by the records of the county assessor within three hundred feet of the boundary of the property upon which the project is proposed.

(c) — Affidavit of Publication Mailing. An affidavit of publication which confirms the project application has been properly published and an affidavit of mailing which confirms that the public notice has been deposited in the U.S. Mail shall be made part of the file. The affidavit of mailing shall specify the number of notices mailed, the date of mailing or posting, and be attached to the distribution list of notice recipients.

(d) — Comment Period. The comment period shall be a minimum of thirty days from the date of the final newspaper publication. Should an environmental impact statement be required, then, pursuant to RCW Chapter 43.21C, the comment period shall be extended to seven days after the issuance of the final EIS.

(2) — Public Hearing.

(a) — Referral to Hearing Examiner. The administrative official may determine a substantial development is of significant public interest or concern, and refer the application to the Yakima County hearing examiner for a public hearing. The hearing shall occur within or as close to the thirty day comment period as possible, but shall occur at least twelve days from the date of a first publication of a hearing notice.

(b) — Hearing Notice. The administrative official shall mail notice of the public hearing to those recorded real property owners as shown by the records of the county assessor within three hundred feet of the property upon which the project is proposed. The administrative official shall also publish the notice once in a newspaper of general circulation within the area in which the development is proposed. The notices shall be mailed and published no less than twelve days prior to the hearing. The notice shall define the date, time and place of the hearing, and provide notice that any person may submit oral or written comments at the hearing or anytime during the comment and review period. The additional notice shall not result in a second thirty day comment period or extend the comment period in process. A copy of the public notice shall be provided to the project applicant and/or any designated agent representing the applicant.

(c) — Combined Notice. When an application is referred to hearing prior to the issuance of the public notice, the public notice and hearing notice may be combined.

(3) — Variance.

(a) — Any request for a variance from a standard or condition established by this title shall be included with the substantial development project application. The variance request shall cite the specific standard or condition from which relief is requested and be accompanied by the evidence necessary to demonstrate the variance is in conformance with the following:

(i) — Unnecessary Hardship. There is a hardship specifically related to the application of a standard or procedure to a unique natural or physical condition associated with the project site which is not the result of a deed restriction, a lack of knowledge of requirements involved when the property was acquired, or other actions resulting from the proponent's own actions. That greater profit would result if a variance were granted is not evidence of a hardship.

(ii) — Special Conditions. There are special conditions or circumstances to which the strict application of a standard would deprive the proponent of a reasonable use of the land or rights commonly enjoyed by other properties in the same area;

(iii) ~~General Compatibility. The project is generally compatible with other permitted or authorized uses in the immediate project area and granting the variance will not cause adverse effects to abutting and adjacent properties or the critical area;~~

(iv) ~~Special Privilege. The requested variance would not constitute a grant of special privilege not enjoyed by other abutting and adjacent properties and the variance is the minimum necessary to afford the requested relief;~~

(v) ~~Public Interest. The requested variance will not endanger the public safety or health and that the public interest will not be compromised;~~

(vi) ~~Cumulative Impact. In the granting of any variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if other variances were to be granted in the area where similar circumstances exist, the total cumulative effect of the variances shall also remain consistent with the policies of this chapter and shall not produce substantial adverse impacts to the designated critical area.~~

(b) ~~Each request for a variance accompanying an application shall be considered separately and prior to any decision to approve or conditionally approve an application for a critical area development authorization. Any decision to approve or conditionally approve the critical area development authorization will include and specifically cite only those variances approved for inclusion with the project.~~

(4) ~~Decision.~~

(a) ~~For substantial development projects not subject to a public hearing, the administrative official shall approve, conditionally approve, or deny the application within ten days of the close of the comment period, or within twenty days after issuance of a final environmental impact statement if one is required.~~

(b) ~~For substantial development projects subject to a public hearing before the Yakima County hearing examiner, the decision to approve, conditionally approve, or deny the permit application shall be provided as early as possible following the end of the thirty-day comment period and the close of the hearing. The hearing examiner shall forward the findings and decision to the planning department, the applicant, and members of the public who requested such copies.~~

(5) ~~Filing of Decision — Mandatory State Appeal Period.~~

(a) ~~If the substantial development project is subject to RCW Chapter 90.58 (Shoreline Management Act), within eight days of the final decision of the administrative official or the receipt of the hearing examiner's decision, a copy of the decision shall be transmitted to the Department of Ecology and to the Attorney General. The transmittal shall include copies of the application, affidavits of public notice and mailing, site plan, vicinity map, permit, and materials associated with any necessary compliance under the State Environmental Policy Act. Filing shall not be complete until the required documents have actually been received by the Department of Ecology and the Attorney General.~~

(b) ~~The administrative official shall advise the applicant that any decision rendered under RCW Chapter 90.58 is preliminary and project work is not authorized to commence until twenty-one days from the date of filing said decision with the Department of Ecology and the Attorney General. The date of filing shall be the date the submission is received by the respective state departments.~~

(c) ~~If, within the thirty-day appeal period, no appeal has been received, the administrative official shall provide written confirmation to the project applicant that the appeal period has ended, the decision is final, and any approved work can commence.~~

(6) ~~Filing of Decision — No Mandatory State Appeal Period. If the substantial development project is not subject to RCW Chapter 90.58, then the decision of the administrative official or hearing examiner shall be final unless appealed in accordance with Section 16A.03.14. The decision shall be forwarded to the project applicant.~~

(Ord. 8-1995 §1 (3.09), 1995).

16A.03.10 — Standard Development Process.

Any nonexempt project determined to be a standard development project shall be processed in accordance with this section.

(1) — 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.

(2) — Public Notice.

(a) — If the administrative official determines a standard development project warrants public notice and the project is not subject to any other public notice requirement, the administrative official shall provide written notice through the U.S. Mail to any agencies with jurisdiction or interest and any owner of record of real property within at least three hundred feet of the external boundaries of the property upon which the project is proposed. The notice shall include, as a minimum, the name of the applicant, a map or general description of the project site location, a brief description of the proposed action, the identification of the lead agency, and any threshold determination under SEPA. The notice shall also include the name, address, and telephone number of the department at which additional information can be obtained, the comment period, and the final date by which such comment must be submitted. The comment period shall be a minimum of fourteen days from the date of publication (if published) or from the date notice was posted in the mail.

(b) — If the administrative official determines a standard development project warrants a public notice and the project is subject to another permit or authorization which requires public notice the administrative official shall, wherever practical, utilize the public notice procedure associated with that development permit or authorization.

(3) — Decision.

(a) — If there is no public notice or environmental review under RCW Chapter 43.21C and the review and approval procedure of another permit or authorization is not involved, the administrative official shall provide a final decision to approve, conditionally approve, or deny the project no more than twenty working days from the date the application was accepted as complete.

(b) — If there is a public notice and comment period, the final decision shall be issued no later than fourteen days from the close of the comment period.

(c) ~~If an environmental review has been required, the final decision shall be issued no later than twenty-working days after completion of the environmental review process.~~

(Ord. 8-1995 §1 (3.10), 1995).

16A.03.11 — Flood-prone Project Review Process.

All development projects which are located within areas of special flood hazard shall be reviewed under the requirements of Chapters 16A.05.20 through 16A.05.72, even if they are exempt, and do not constitute substantial or standard development per Section 16A.03.07.

(Ord. 8-1995 §1 (3.11), 1995).

16A.03.12 — Conditional Approval of Critical Area Development Authorization.

In granting any critical area development authorization, the administrative official 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.~~

(Ord. 8-1995 §1 (3.12), 1995).

16A.03.13 — Administrative Adjustment of Standards.

(1) ~~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. A particular standard may be reduced or modified as long as the determines that the adjustment and/or reduction is consistent with the purpose of this title, the intent of the standard, and will not result in degradation of the critical area.~~

(2) ~~Requests for administrative 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) ~~The administrative official's decision regarding the request for an administrative adjustment shall be rendered along with the decision on the critical area development authorization. The decision shall include written findings and conclusions stating the specific reasons upon which the decision is based.~~

(Ord. 8-1995 §1 (3.13), 1995).

16A.03.14 — Appeals.

Critical area development authorization decisions shall be final and conclusive unless it is appealed in accordance with the provisions of this section.

(1) ~~Any decision on the issuance of a critical area development authorization not processed as part of another development permit or authorization can be appealed to the Yakima County hearing examiner. Appeals must be filed within fourteen calendar days from the date of issuance of the critical area development authorization. Appeals to the hearing examiner shall be according to the procedures and provisions of Chapter 16B of this code. Appeal fees shall be as specified in the Yakima County Fee Schedule, at Title 20 of this code.~~

(2) ~~If a substantial development project was provided hearing before the Yakima County hearing examiner and is not subject to RCW Chapter 90.58, any appeal of the decision of the hearing examiner shall be filed with the board of county commissioners in accordance with Chapter 16B of this code.~~

(3) ~~Appeals of any decision on a substantial development project subject to RCW Chapter 90.58 shall be filed with the State Shoreline Hearings Board within twenty-one days from the date the final decision was filed with the~~

Department of Ecology and the Office of the Attorney General. Copies of the appeal must be filed with Yakima County, the Department of Ecology, and the Attorney General.

(4) ~~Any decision on the issuance of a critical area development authorization for a standard development project which has been processed as part of another development permit or authorization shall be subject to the same appeal procedures as that permit or authorization. If the permit or authorization is not appealable, the critical area development authorization also shall not be appealable.~~

(5) ~~All appeals shall be de novo to the hearing examiner. Appeals to the board of commissioners shall be on the record of the hearing examiner's decision.~~

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (3.14), 1995).

16A.03.15 — Modifications to Approved Uses or Developments.

(1) ~~Proposed modifications to a use or development already approved for a critical area development authorization shall be determined to be either a minor modification or a major modification based, on the nature and scope of the modification. The determination as to whether a modification is major or minor shall be at the discretion of the administrative official, who shall make written findings upon which the determination is based.~~

(2) ~~A minor modification is one that, in the determination of the administrative official, is within the scope and intent of the approved critical area development authorization and will not create or materially increase any adverse impacts or undesirable effects of the project. For a use or development approved in conjunction with the Shoreline Management Act, the proposed modification shall comply with WAC 173-14-064(2) in order to be considered a minor modification. If a modification is determined to be minor, a new critical area development authorization application is not required; however, conditions can be attached to the granted authorization to minimize or mitigate any impacts from the minor modification.~~

(3) ~~A major modification is one that, based on the evidence (and, in the case of substantial development projects approved in conjunction with the Shoreline Management Act that do not comply with WAC 173-14-064(2)), is determined to be beyond the scope and intent of the approved critical area development authorization and will create or materially increase any adverse impacts or undesirable effects of the project. If a modification is determined to be major, a new critical area development authorization application shall be required and shall be processed according to the procedures specified in this chapter.~~

(4) ~~Any aggrieved person or agency affected by any determination of the administrative official as to whether a proposed modification is major or minor may appeal that determination to the hearing examiner according to the provisions of Section 16A.03.14. Appeals of modification determinations must be filed within fourteen calendar day from the date of decision of the determination.~~

(Ord. 8-1995 §1 (3.15), 1995).

16A.03.16 — Fees and Charges.

The board of county commissioners establishes the schedule of fees and charges listed in Yakima County Code, Title 20, for critical area development authorizations, variances, appeals and other matters pertaining to this title.

(Ord. 8-1995 §1 (3.16), 1995).

~~Chapter 16A.04~~

~~STREAM CORRIDOR SYSTEM AND OTHER HYDROLOGICALLY RELATED CRITICAL AREAS~~

Sections:

- ~~16A.04.01 Purpose and Intent.~~
- ~~16A.04.02 Functional Properties.~~
- ~~16A.04.03 Hydrologic Critical Area Features.~~
- ~~16A.04.04 Determination of Stream Corridor and Other Hydrologically Related Critical Area Features.~~
- ~~16A.04.05 Use Classification.~~
- ~~16A.04.06 General Guidelines.~~
- ~~16A.04.07 Prohibited Uses.~~
- ~~16A.04.08 General Policies and Standards.~~
- ~~16A.04.09 Water-Dependent Uses.~~
- ~~16A.04.10 Water-Related Uses.~~
- ~~16A.04.11 Non-Water-Oriented uses.~~
- ~~16A.04.12 Floodway and Floodplain.~~
- ~~16A.04.13 Roads and Railroads.~~
- ~~16A.04.14 Utility Transmission Lines.~~
- ~~16A.04.15 Shoreline Stabilization.~~
- ~~16A.04.16 Dredging and Excavation.~~
- ~~16A.04.17 Filling.~~
- ~~16A.04.18 Industrial Mining of Gravels.~~
- ~~16A.04.19 Reclamation.~~
- ~~16A.04.20 Conversion of Existing Uses.~~
- ~~16A.04.21 Critical Area Maps.~~
- ~~16A.04.22 Stream Typing System.~~
- ~~16A.04.23 Wetland Rating System.~~
- ~~16A.04.24 Vegetative Buffers.~~
- ~~16A.04.25 Adjustments.~~
- ~~16A.04.26 Special Studies.~~

~~16A.04.01 Purpose and Intent.~~

~~(1) Hydrologically related critical areas, including the stream-corridor system, shoreline lakes and ponds, and wetlands 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.~~

~~(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, to the extent practical, a zero net loss of natural wetlands functions and values together with, if reasonably possible through voluntary agreements or government incentives, a gain of wetlands in the long-term;~~

- (f) — Establish similar measures to protect shoreline lakes, ponds, and wetlands not hydrologically connected to the stream corridor system.

(Ord. 8-1995 §1 (4.01), 1995).

16A.04.02 — Functional Properties.

(1) — Hydrologically related critical areas, including the stream corridor system, shoreline lakes and ponds listed in Appendix B, set out at the end of this chapter, and wetlands, require sufficient area of undisturbed soil in combination with a variety of native grasses and woody plants to support one or more of the following functional properties:

- (a) — Streambank and shoreline 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) — Erosion prevention;
- (f) — Providing and maintaining migratory corridors for wildlife;
- (g) — Supporting a diversity of wildlife habitat;
- (h) — Providing floodwater storage.

(2) — 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 strengthen other functional properties.

(Ord. 8-1995 §1 (4.02), 1995).

16A.04.03 — Hydrologic Critical Area Features.

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

- (1) — Any floodway and floodplain identified with the one hundred year flood frequency;
- (2) — The stream main channel and all secondary channels connected by surface waters to the main channel;
- (3) — Any vegetated shallows;
- (4) — All wetlands, including those which are in proximity to and either influence, or are influenced by, the stream through periodic inundation or hydraulic continuity;
- (6) — 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;
- (7) — A wetland area consisting of any portion of an upland area not included in subsections (1) through (5) above and extending on a horizontal plane from the ordinary high water mark of a stream channel, or from the edge of a wetland according to the distances set forth in Section 16A.04.24;
- (8) — Isolated wetlands and shoreline lakes and ponds listed in Appendix B.

(Ord. 8-1995 §1 (4.03), 1995).

16A.04.04—Determination of Stream Corridor and Other Hydrologically Related Critical Area Features.
For the purposes of this chapter, the following provisions shall apply:

(1) The line dividing surface waters, vegetated shallows, and wetlands from upland areas shall be the ordinary high water mark or the zone of vegetation which marks the transition from aquatic or saturated soil vegetation types to upland vegetation. In the absence of a clearly defined ordinary high water mark or wetland edge, the project proponent and the administrative official may mutually agree upon an ordinary high water mark from which to apply the provisions of this title, as set forth in Chapter 16A.03. Where no agreement as to the location of the ordinary high water mark or wetland edge can be reached, the ordinary high water mark or wetland edge may be identified with the assistance of agency representatives or qualified consultants having expertise.

(2) 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 Maps, is hereby adopted by reference and declared to be a part of this title as set forth in Chapters 16A.05.20 through 16A.05.72.

(3) Where it is clear that an ordinary high water mark or floodway does not exist for the purpose of establishing vegetative buffers under this chapter, the administrative official may use the centerline of the stream to measure the vegetative buffer. Other vegetative buffers are as set forth in Section 16A.04.24.

(Ord. 8-1995 §1 (4.04), 1995).

16A.04.05—Use Classification.

For purposes of this chapter, any development, construction, or use requiring a critical area development authorization shall be classified in accordance with the following:

(1) Water dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, 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 shoreline.

(2) 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 water plays an important role with respect to the materials, products, or services associated with the use. Examples would include thermal power plants, sewage treatment plants, processing plants which require large volumes of water, and support services for fish hatcheries or aquaculture.

(3) A public benefit use includes:

(a) Roads, railroads, utility transmission lines, and other similar uses which provide an important public service, protect public health and safety, or provide some other public benefit, that are not functionally dependent on a location within a stream corridor, but must necessarily traverse a corridor; and

(b) Public ecological and scientific reserves, public waterfront parks, public beaches, resorts, and other similar uses that are open to the general public and provide for the public enjoyment.

(4) Non-water oriented uses include any use not qualifying as uses in subsections (1), (2) or (3) above.

(Ord. 8-1995 §1 (4.05), 1995).

16A.04.06—General Guidelines.

In the absence of a specific standard or policy, the following general guidelines shall apply in the authorization of any development, construction or use within a designated hydrologically related critical area (HRCA):

(1) Development, construction, or uses within the hydrologically related critical area that would contribute to its degradation shall be avoided.

(2) — Necessary development, construction, and uses within the hydrologically related critical area shall provide for the conservation and protection of soils, surface water, subsurface water, vegetation and wildlife.

(3) — Individual projects or actions that, if continued as a pattern, would accumulatively result in the degradation or impairment of the hydrologically related critical area, shall be avoided.

(4) — Natural conditions using native vegetation shall be used unless manmade, engineered, solutions better serve the intent and purpose of this title.

(Ord. 8-1995 §1 (4.06), 1995).

16A.04.07 — 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 listed in state and federal critical materials lists as 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 tailings, spoilage, and mining waste materials associated with other than the mining of gravel for industrial purposes;

(4) — The draining or filling of a wetland or vegetative shallows except as provided for in Section 16A.04.17;

(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;

(7) — Solid waste disposal sites;

(8) — Automobile wrecking yards;

(9) — Wells, except those developed in a protected aquifer having acceptable minimums of hydraulic continuity with the surface waters.

(Ord. 8-1995 §1 (4.07), 1995).

16A.04.08 — 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) — A vegetative buffer of undisturbed soil and native vegetation shall be maintained land-ward from the ordinary high water mark of any stream channel and/or the edge of any shoreline lake, pond or wetland in accordance with Section 16A.04.24.

(2) — Existing riparian vegetation and any unique or sensitive vegetative species identified on the project site within the stream corridor shall not be disturbed.

(3) — Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall not be disturbed.

(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.

(5) — 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.

- (6) — 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.
- (7) — The removal of ground cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.
- (8) — 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.
- (9) — 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.
- (10) — 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.
- (11) — 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.
- (12) — 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.
- (13) — 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.
- (14) — The discharge point for controlled stormwater and meltwater runoff and other outfall shall be protected from 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.
- (15) — 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.
- (16) — 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.
- (17) — 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.
- (18) — Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(Ord. 8-1995 §1 (4.08), 1995).

16A.04.09 — Water-Dependent Uses.

The following provisions shall apply to the placement, construction, or installation of structures associated with water-dependent uses within a designated stream corridor, shoreline lake or pond:

- (1) — Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shorelines.

(2) — Docks, boat launching facilities, water intakes and outfalls, and other construction which requires direct shoreline locations shall be located and constructed to minimize impacts to the shoreline area and the vegetative buffer specified in Sections 16A.04.08(1) and 16A.04.24.

(3) — Docks, boat launching facilities, water intakes and outfalls, and other similar structures requiring direct shoreline locations shall not obstruct or endanger normal public navigation of the surface water.

(Ord. 8-1995 §1 (4.09), 1995).

16A.04.10 — Water Related Uses.

The following provisions shall apply to the placement, construction, or installation of structures associated with water-related uses within a designated hydrologically related critical area:

(1) — Structures 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 shall not exceed the maximum height specified for the underlying zoning. Where the underlying zoning does not specify a maximum building height, structures shall not exceed thirty feet in height.

(3) — Structures shall not interfere with existing public access.

(4) — Structures shall not be located within the vegetative buffer specified in Sections 16A.04.08(1) and 16A.04.24 except where existing development or the requirements associated with the use make such a location unavoidable.

(Ord. 8-1995 §1 (4.10), 1995).

16A.04.11 — Non Water Oriented Uses.

The following provisions shall apply to the placement, construction, or installation of structures associated with nonwater oriented uses within a designated hydrologically related critical area:

(1) — Structures shall be set back so as not to be located within the vegetative buffer specified in Sections 16A.04.08(1) and 16A.04.24.

(2) — Where parcel boundaries, patterns of existing construction, and other development factors preclude conformance with the minimum setback, the setback shall be the maximum possible that can be uniformly applied to all similarly sized abutting and adjacent parcels along the stream corridor on either side of the project site, provided that an adjustment in the width of the vegetative buffer is obtained in accordance with Section 16A.04.25.

(3) — Construction abutting the vegetative buffer specified in Sections 16A.04.08(1) and 16A.04.24 shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

(4) — Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities shall be repaired at the completion of the construction.

(5) — Structures shall not exceed the maximum building height specified for the underlying zoning. When the underlying zoning does not specify a maximum building height, structures shall not exceed thirty-five feet in height.

(Ord. 8-1995 §1 (4.11), 1995).

16A.04.12 — Floodway and Floodplain.

The provisions of Chapters 16A.05.20 through 16A.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.

(Ord. 8-1995 §1 (4.12), 1995).

16A.04.13 — Roads and Railroads.

The following provisions shall apply to the location and construction of roads and railroads within a designated hydrologically related critical area:

- (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.
 - (2) — Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
 - (3) — Roadways parallel to shorelines or wetland edges shall be along routes having the greatest possible distance from shoreline or wetland and the least impact to the corridor.
 - (4) — 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.
 - (5) — Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the water surface elevation of the base flood such that it would cause properties not in the floodplain to be flood-prone.
 - (6) — Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor.
 - (7) — Bridges and water crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water.
 - (8) — The preservation of natural stream channels and drainage ways shall be preferred over the use of culverts.
 - (9) — The alignment and slope of culverts shall parallel the natural flow of streams or drainage ways, shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.
 - (10) — Where fish are present, culverts shall be designed and constructed to specifications provided through the Department of Fisheries or a comparable source of expertise.
- (Ord. 8-1995 §1 (4.13), 1995).

16A.04.14 — Utility Transmission Lines.

The following provisions shall apply to the location, construction, or installation of utility transmission lines within a designated hydrologically related critical area:

- (1) — Utility transmission lines 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.
- (2) — Utility transmission lines across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
- (3) — The construction of utility transmission lines within a stream corridor shall be designed and located to ensure minimum disruption to the functional properties specified under Section 16A.04.02 of this title.
- (4) — Any utility transmission line placed within the floodway or floodplain shall be designed and located to prevent infiltration of floodwaters into the system or discharge from the system into floodwaters.
- (5) — Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour of the waterway and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis.
- (6) — Wherever possible, new aboveground installations shall use available, existing bridge and utility crossings as opposed to creating new crossings.
- (7) — Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical.

(8) — ~~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 flood-proofed.~~

(Ord. 8-1995 §1 (4.14), 1995).

16A.04.15 — Shoreline Stabilization.

The following provisions shall apply to shoreline stabilization projects:

(1) — ~~Shoreline stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, or facilities.~~

(2) — ~~Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise.~~

(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 the resultant shoreline does not extend beyond the ordinary high water mark, finished grades are consistent with abutting properties, and the fill material is in compliance with Section 16A.04.17.~~

(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 shoreline.~~

(6) — ~~Vegetation, berms, bioengineering techniques, and other nonstructural alternatives which preserve the natural character of the shoreline shall be preferred over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization.~~

(7) — ~~Riprap using rock or other natural materials shall be preferred over concrete revetments, bulkheads, breakwaters, and other structural stabilization.~~

(8) — ~~Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shoreline.~~

(9) — ~~Breakwaters shall be constructed of floating or open pile designs rather than fill, riprap, or other solid construction methods.~~

(Ord. 8-1995 §1 (4.15), 1995).

16A.04.16 — Dredging and Excavation.

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

(1) — ~~Dredging in surface waters or vegetative shallows, and excavation in wetlands shall be allowed only where necessary because of navigation needs, habitat restoration or improvement, maintenance of existing water dependent uses, removal of gravel as an industrial mineral, bridge construction, and other essential activities.~~

(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 shorelines 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 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.

(Ord. 8-1995 §1 (4.16), 1995).

16A.04.17 — Filling.

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

(1) — Fill for the sole purpose of increasing land area within the stream corridor shall be prohibited.

(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.

(4) — Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water dependent uses, essential public facilities, or an approved reclamation plan under Section 16A.04.19.

(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, shorelines, and wetlands.

(Ord. 8-1995 §1 (4.17), 1995).

16A.04.18 — Industrial Mining of Gravels.

The following provisions shall apply to the industrial mining of gravels within a designated hydrologically related critical area:

(1) — Prior to the authorization of an industrial 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, vegetative shallow, or other stream corridor features.
- (3) — Where permanent impairment or loss of a stream corridor feature is unavoidable, the subsequent use and reclamation shall provide for the feature's replacement at equal or greater value.
- (4) — Except where authorized by Yakima County in consultation with the State Department of Fisheries 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, rockerushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.
- (5) — Any resultant lake or surface water body shall provide for the following:
- (a) — Banks from the top of the final excavation to a minimum of five feet below the lowest groundwater level shall be no steeper than three feet horizontal to one foot vertical.
 - (b) — Resultant shorelines shall be shaped and contoured to provide shallow water areas, bays, peninsulas, nesting islands, and other features which are designed to enhance and support wildlife habitat and other stream corridor features.
- (6) — Final contouring, excavation, and fill to support subsequent residential, commercial, industrial, or other uses shall comply with all provisions of this chapter.
- (Ord. 8-1995 §1 (4-18), 1995).

16A.04.19 — Reclamation.

The following guidelines shall apply to reclamation activities within a designated hydrologically related critical area:

- (1) — Development, construction, or uses shall include the timely restoration of disturbed features to their 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) — Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.

(8) — The replacement or enhancement of vegetation within wetlands and required vegetative zones shall use naturally occurring, native plant species.

(9) — Naturally occurring, native plant species shall be the preferred vegetation in other parts of the stream-corridor.

(10) — Self-maintaining or low-maintenance plant species compatible with native vegetation shall be preferred over nonnative and high-maintenance species.

(Ord. 8-1995 §1 (4.19), 1995).

16A.04.20 — Conversion of Existing Uses.

Conversion to a new use from an existing use or development which does not meet the provisions of this chapter shall be reviewed in light of the following:

(1) — The conversion will demonstrably reduce impacts to stream corridor and other hydrologically related critical area features; and

(2) — The conversion will restore and/or enhance the functional properties outlined in Section 16A.04.02.

(Ord. 8-1995 §1 (4.20), 1995).

16A.04.21 — Critical Area Maps.

(1) — Certain hydrologically related critical areas have been inventoried and are hereby designated on a series of data maps containing the signature of the legislative body and maintained at the Yakima County planning department. For regulatory purposes, these maps represent the one-hundred-year floodplain as designated by the Federal Emergency Management Agency (FEMA), all wetlands as defined in Section 16.02.425, Type 1 Streams as defined in Section 16A.04.22, and all lakes and ponds subject to the provisions of RCW Chapter 90.58 listed in Appendix B. Type 2 stream corridors are listed in Appendix C.

(2) — For Types 3, 4 and 5 streams, the data maps are intended to alert the public of potential use or development-limiting factors based on the presence and function of certain natural systems. The best available graphic depiction of critical areas within the county will be used and continuously updated as reliable data becomes available. For Type 3, 4 and 5 streams these maps are for information and illustrative purposes only and are not regulatory in nature.

(3) — The presence of an HRCA on the data maps within or near the property proposed for development is sufficient foundation for the administrative official to require preparation of a preliminary site plan. This preliminary site plan may be one piece of information used to analyze how a HRCA could be affected by a development proposal. To the extent possible, all HRCA features must be shown on the preliminary site plan prior to the administrative official determining whether the development is subject to this title.

(Ord. 8-1995 §1 (4.21), 1995).

16A.04.22 — Stream Typing System.

For purposes of this title, Yakima County hereby adopts a stream typing system as follows:

(1) — Type 1 streams are all streams, within their ordinary high water mark (OHWM), inventoried as "shorelines of the state" under RCW Chapter 90.58, but not including those waters' associated wetlands as defined in RCW Chapter 90.58. This class also includes all shoreline lakes and ponds of statewide significance. Type 1 streams and all shoreline lakes and ponds of statewide significance along with their specific shoreline environments are listed in Appendix B.

(2) — Type 2 streams are those stream corridor segments which require protection due to the nature of their contributions to the functional properties listed in Section 16A.04.02. Type 2 streams are listed in Appendix C.

(3) — Type 3 streams include all perennial fish and nonfish bearing streams within Yakima County not classified as Type 1 or 2 and which contribute significantly to the functional properties listed in Section 16A.04.02.

(4) — Type 4 streams are all intermittent fish bearing streams within Yakima County not classified as Type 1, 2 or 3 and which provide moderate contributions to the functional properties listed in Section 16A.04.02.

(5) — Type 5 streams are all intermittent non fish bearing streams within Yakima County not classified as Type 1, 2, 3 or 4 and which provide moderate to slight contributions to the functional properties listed in Section 16A.04.02.

(Ord. 8-1995 §1 (4.22), 1995).

16A.04.23 — Wetland Rating System.

Wetlands within Yakima County are defined in Section 16A.02.425 and are shown on the data maps referenced in Section 16A.04.21. 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 location and their contribution to the functional properties listed in Section 16A.04.02. For regulatory purposes, wetlands are classified into four categories according to the Wetland Rating System found in Appendix A.

(Ord. 8-1995 §1 (4.23), 1995).

16A.04.24 — Vegetative Buffers.

Establishment. There is hereby established a system of vegetative buffers that are necessary to protect the functions and values of certain hydrologically related critical areas. Tables 16A.04.24-1, 16A.04.24-2 and 16A.04.24-3 establish standard buffer widths for stream corridors, shoreline lakes and ponds and wetlands as defined in Section 16A.02.425.

(Ord. 8-1995 §1 (4.24), 1995).

TABLE 16A.04.24-1

VEGETATIVE BUFFERS

Type I—Shoreline Streams, Lakes, Ponds and Associated Wetlands

Shoreline Environment Classification and Vegetative Buffer Requirements	VEGETATIVE BUFFER WIDTH BY WETLAND TYPE			
	Type I Wetland Std.:(Min.)	Type II Wetland Std.:(Min.)	Type III Wetland Std.:(Min.)	Type IV Wetland Std.:(Min.)
Natural and Conservancy—100'	200' (100')	150' (75')	100' (50')	50' (25')
Rural—75'	200' (75')	100' (75')	75' (25')	50' (0')
Urban—50'	200' (50')	100' (50')	50' (25')	25' (0')

TABLE 16A.04.24-2

VEGETATIVE BUFFERS

Nonshoreline Streams, Lakes, Ponds and Associated Wetlands

Stream Type and Vegetative Buffer	VEGETATIVE BUFFER WIDTH BY WETLAND TYPE			
	Type I Wetland Std.:(Min.)	Type II Wetland Std.:(Min.)	Type III Wetland Std.:(Min.)	Type IV Wetland Std.:(Min.)

	VEGETATIVE BUFFER WIDTH BY WETLAND TYPE			
Type 2 Streams 75' – (25')				
Type 3 Streams 50' – (25')	200' (25')	100' (25')	75' (25')	25' (0')
Type 4 Streams 25' – (0')				
Type 5 Streams – On a case-by-case basis but not more than 25'				

TABLE 16A.04.24-3

VEGETATIVE BUFFERS

Isolated Wetlands

VEGETATIVE BUFFER WIDTH BY WETLAND TYPE			
Type I Wetland Std. (Min.)	Type II Wetland Std. (Min.)	Type III Wetland Std. (Min.)	Type IV Wetland Std. (Min.)
200' (25')	100' (25')	75' (25')	25' (0')

16A.04.25 – Adjustments.

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 requested in accordance with Section 16A.03.13 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 16A.04.02.

(1) — When considering an adjustment to the provisions of this chapter, the administrative official shall base the adjustment on the following criteria:

- (a) — The overall intensity of the proposed use;
- (b) — The presence of threatened, endangered, or sensitive species;
- (c) — The site's susceptibility to severe erosion;
- (d) — The use of a buffer enhancement plan by the applicant which uses native vegetation or other measures which will enhance the functions and values of the wetland or buffer;
- (e) — The proximity and relationship of the wetland to any stream typed in Section 16A.04.22;
- (f) — The contribution of the wetland to the functional properties of Section 16A.04.02.

(2) — 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 HRCAs. These alternative measures may include, but are not limited to, the following:

- (a) — Restoration of impaired channels and channel banks to conditions which support natural stream flows, fish habitat, and other values;
- (b) — Restoration, enhancement, and preservation of soil characteristics and the quantity and variety of native vegetation;

(c) — ~~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;~~

(d) — ~~Removal or alteration of existing manmade facilities associated with stream channels, vegetated shallows, or drainage ways which improve streamflow characteristics or improve the movement or exchange of surface waters or floodwaters;~~

(e) — ~~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;~~

(f) — ~~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.~~

(3) — ~~Vegetative Buffer Averaging. Vegetative buffers may be modified by averaging buffer widths. Vegetative buffer width averaging shall be allowed only where the applicant demonstrates that the following exist:~~

(a) — ~~That averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;~~

(b) — ~~That the HRCAs contains variations in sensitivity due to existing physical characteristics;~~

(c) — ~~That the proposed use would be located adjacent to areas where buffer width is reduced, and that such land uses are low in impact;~~

(d) — ~~That width averaging will not adversely impact HRCAs function and values.~~

(Ord. 8-1995 §1 (4.25), 1995).

16A.04.26 — Special Studies.

~~The administrative official may require a special study where determined necessary through the technical assistance conference, site investigation, or other portion of the project review. The following is a partial list of studies which may be required. The adequacy of any required report shall be at the discretion of the administrative official, who shall make written findings upon which the determination of adequacy is based.~~

(1) — ~~Prior to authorization of any major construction project within a floodplain which can be anticipated to displace floodwaters, 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.~~

(2) — ~~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.~~

(Ord. 8-1995 §1 (4.26), 1995).

~~Chapter 16A.05.20~~

~~FLOOD HAZARD AREAS – GENERAL PROVISIONS~~

Sections:

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

16A.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 a part of Chapters 16A.05.20 through 16A.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. The best available information for flood hazard area identification as outlined in 16A.05.44.060 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under 16A.05.44.060.~~

~~(Res. 127-2012 § 1(1), 2012; Ord. 1-2005 § XIII, 2005; Ord. 8-1995 § 1 (5.20.010), 1995).~~

16A.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 16A.05.20 through 16A.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 16A.05.20 through 16A.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.~~

~~(Ord. 8-1995 § 1 (5.20.030), 1995).~~

16A.05.20.050 — Applicability.

~~The guidelines and regulations set forth herein, in 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 or quasi-judicial processes within Yakima County.~~

~~(1) — The provisions of Chapters 16A.05.20 through 16A.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 16A.05.20 through 16A.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.

(Ord. 1-2005 § XIV, 2005; Ord. 8-1995 §1 (5.20.050), 1995).

16A.05.20.060 — Exemptions.

The following uses and activities are exempt from the provisions of Chapters 16A.05.20 through 16A.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 16A.05.28.020(3)(e).

(Ord. 1-2005 § XV, 2005; Ord. 8-1995 § 1 (5.20.060), 1995).

16A.05.20.070 — Interpretations.

(1) — In the interpretation and application of Chapters 16A.05.20 through 16A.05.72, the provisions shall be considered as minimum requirements, shall be liberally construed in favor of Yakima County, and deemed neither to limit or repeal any other powers granted under state statute. Its provisions shall be applied in addition to and as a supplement to provisions of Yakima County Code (YCC) Title 13, Buildings and Construction, YCC Title 19 — the Unified Land Development Code, and the Shoreline Master Program. Chapters 16A.05.20 through 16A.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).

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 1-2005 § XVI, 2005; Ord. 8-1995 §1 (5.20.070), 1995).

16A.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 16A.05.20 through 16A.05.72 and other applicable regulations.

(Ord. 8-1995 §1 (5.20.080), 1995).

16A.05.20.090 — Warning and Disclaimer of Liability.

The degree of flood protection required by Chapters 16A.05.20 through 16A.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 16A.05.20 through 16A.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.

(Ord. 8-1995 §1 (5.20.090), 1995).

~~Chapter 16A.05.28~~

FLOOD HAZARD PROTECTION STANDARDS

Sections:

~~16A.05.28.010 — General Standards.~~

~~16A.05.28.020 — Specific Standards.~~

16A.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.~~

~~(Ord. 8-1995 §1 (5.28.010), 1995).~~

16A.05.28.020—Specific Standards.

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

~~(1) Residential Construction (Ref. IRC 323.2).~~

~~(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 16A.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 16A.05.28.020(1)(B) above;~~

(e) — Meet the special standards for structures set forth in Section 16A.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 only flood resistant materials shall be used for elements of these buildings below the base flood elevation.

(4) — Manufactured Homes. Manufactured homes shall be anchored in accordance with Section 16A.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 16A.05.28.010(1)(b).

(Ord. 1-2005 § XVII, 2005; Ord. 8-1995 §1 (5.28.020), 1995).

~~Chapter 16A.05.32~~

FLOODWAY FRINGE USES

Sections:

16A.05.32.010 — Permitted Uses.

16A.05.32.020 — Prohibited Uses.

16A.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 Title 19 of the Yakima County Code, unless prohibited by Section 16A.05.32.020.

(2) — Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with Title 19 and where not otherwise inconsistent with Chapters 16A.05.20 through 16A.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 16A.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.

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (5.32.010), 1995).

16A.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.

(Ord. 8-1995 §1 (5.32.020), 1995).

~~Chapter 16A.05.36~~

FLOODWAY USES

Sections:

16A.05.36.010 — Permitted Uses.

16A.05.36.020 — Prohibited Uses.

16A.05.36.010 — Permitted Uses.

Permitted uses include any use permitted in the zoning district in accordance with Title 19 of this code, provided that said use is in compliance with the flood hazard protection standards of Chapter 16A.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 16A.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 (WAC 173-19-470):

(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 on 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 16A.05.36.020(3);

(4) — Improvements to existing residential structures that are not substantial improvements per Section 16A.05.24.260; provided, the improvement complies with the requirement set forth in Section 16A.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. 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 flood water 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) — Public works, limited to roads and bridges.

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (5.36.010), 1995).

16A.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 Chapter 19.18 of the Yakima County Code);

(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:

- (a) ~~Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and~~
- (b) ~~Repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the market value of the structure either:~~

- (i) ~~Before the repair, reconstruction or improvement is started, or~~

- (ii) ~~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 16A.05.20 through 16A.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 16A.04 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.~~

~~(Res. 80-2016 (Exh. A) (part), 2016; Ord. 1-2005 § XVIII, 2005; Ord. 8-1995 §1 (5.36.020), 1995).~~

~~Chapter 16A.05.40~~

NONCONFORMING USES AND STRUCTURES

Sections:

- 16A.05.40.010 — ~~Generally.~~
- 16A.05.40.020 — ~~Nonconforming Uses of Land.~~
- 16A.05.40.030 — ~~Nonconforming Structures.~~
- 16A.05.40.040 — ~~Improvements.~~
- 16A.05.40.050 — ~~Restoration.~~
- 16A.05.40.060 — ~~Discontinuance.~~

16A.05.40.010 — ~~Generally.~~

(1) — ~~Within the special flood hazard areas established by Chapters 16A.05.20 through 16A.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 16A.05.20 through 16A.05.72 or future amendment.~~

(2) — ~~It is the intent of Chapters 16A.05.20 through 16A.05.72 to permit these lawful preexisting 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 16A.05.20 through 16A.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 this title shall be used as it applies to all other critical areas requirements established under this title by Ordinance 8-1995.~~

(Ord. 1-2005 § XIX, 2005; Ord. 8-1995 §1 (5.40.010), 1995).

16A.05.40.020 — ~~Nonconforming Uses of Land.~~

If, on October 1, 1995, the effective date of Chapters 16A.05.20 through 16A.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 16A.05.20 through 16A.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 16A.05.20 through 16A.05.72 and Title 19.~~

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (5.40.020), 1995).

16A.05.40.030 — ~~Nonconforming Structures.~~

(1) — ~~If, on October 1, 1995, the effective date of Chapters 16A.05.20 through 16A.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, 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 16A.05.20 through 16A.05.72, destroyed to an extent such that restoration costs would exceed seventy-five 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 Title 19 upon restoration.

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 1-2005 § XX, 2005; Ord. 8-1995 §1 (5.40.030), 1995).

16A.05.40.040 — Improvements.

Nothing in Chapters 16A.05.20 through 16A.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.

(Ord. 8-1995 §1 (5.40.040), 1995).

16A.05.40.050 — Restoration.

Nothing in Chapters 16A.05.20 through 16A.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.

(Ord. 1-2005 § XXI, 2005; Ord. 8-1995 §1 (5.40.050), 1995).

16A.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.

(Ord. 8-1995 §1 (5.40.060), 1995).

~~Chapter 16A.05.44~~

FLOOD HAZARD PROTECTION ADMINISTRATION

Sections:

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

~~16A.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 16A.05.20 through 16A.05.72 and may prepare and require the use of such forms as are essential to such administration.~~

~~(Ord. 8 1995 §1 (5.44.010), 1995).~~

~~16A.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 16A.05.20 through 16A.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.~~

~~(Ord. 8 1995 §1 (5.44.020), 1995).~~

~~16A.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 16A.03 of this title.~~

~~(Ord. 8 1995 §1 (5.44.030), 1995).~~

~~16A.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 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 16A.05.20 through 16A.05.72;~~

(6) ~~Information required by other sections of Chapters 16A.05.20 through 16A.05.72.~~

(Ord. 8-1995 §1 (5.44.040), 1995).

16A.05.44.050 — Permit — Review.

~~Flood hazard permit applications will be reviewed to determine:~~

(1) ~~That the floodproofing requirements and other provisions of Chapters 16A.05.20 through 16A.05.72 have been satisfied;~~

(2) ~~If the proposed development is located in the floodway, the floodway encroachment provisions of Section 16A.05.36.020(2) are met;~~

(3) ~~If the proposed development includes the alteration or relocation of a watercourse, the provisions of Section 16A.05.28.010(4) are met;~~

(4) ~~That the proposed development is a use permitted under Chapters 16A.05.20 through 16A.05.72 and Title 19;~~

(5) ~~That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.~~

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8-1995 §1 (5.44.050), 1995).

16A.05.44.060 — Use of Available Data.

~~When base flood elevation data has not been provided in accordance with Section 16A.05.20.010, flood hazard areas established, the county shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Section 16A.05.28.020, specific standards, Section 16A.05.36.020, floodway prohibited uses, and Chapter 16A.06.~~

(Ord. 1-2005 § XXII, 2005; Ord. 8-1995 §1 (5.44.060), 1995).

16A.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 16A.05.20 through 16A.05.72 and punishable as provided by Chapter 16.60.~~

(Ord. 8-1995 §1 (5.44.070), 1995).

16A.05.44.080 — Permit — Expiration and 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.~~

(Ord. 8-1995 §1 (5.44.080), 1995).

16A.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 16A.05.20 through 16A.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.~~

~~(Ord. 8-1995 §1 (5.44.090), 1995).~~

16A.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 16A.03.~~

~~(Ord. 8-1995 §1 (5.44.100), 1995).~~

16A.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 Chapter 16A.05.20 through 16A.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.~~

~~(Ord. 8-1995 §1 (5.44.110), 1995).~~

~~Chapter 16A.05.48~~

~~ELEVATION AND FLOODPROOFING CERTIFICATION~~

Sections:

~~16A.05.48.010 — Applicability.~~

~~16A.05.48.020 — Certification Form.~~

~~16A.05.48.030 — Information to be Obtained and Maintained.~~

~~16A.05.48.040 — Certification Responsibility.~~

~~16A.05.48.010 — Applicability.~~

~~Certification shall be provided to verify that the minimum floodproofing and elevation standards of Chapter 16A.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 16A.05.28.020(3) shall not require certification. Such structures are still subject to elevation or floodproofing certification for flood insurance purposes.~~

~~(Ord. 8-1995 §1 (5.48.010), 1995).~~

~~16A.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.~~

~~(Ord. 8-1995 §1 (5.48.020), 1995).~~

~~16A.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 16A.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.~~

~~(Ord. 8-1995 §1 (5.48.030), 1995).~~

~~16A.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 16A.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.~~

~~(Ord. 8-1995 §1 (5.48.040), 1995).~~

~~Chapter 16A.05.52~~

VARIANCES

Sections:

- 16A.05.52.010 — Procedure.
- 16A.05.52.020 — Variance Limitations.
- 16A.05.52.030 — Conditions for Authorization.
- 16A.05.52.040 — Administrative Official's Decision.
- 16A.05.52.050 — Notification of Final Decision.
- 16A.05.52.060 — Power to Refer Decisions.
- 16A.05.52.070 — Appeals.

16A.05.52.010 — Procedure.

Any person seeking a variance from the requirements of Chapters 16A.05.20 through 16A.05.72 authorized under Section 16A.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.

(Ord. 8-1995 §1 (5.52.010), 1995).

16A.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 16A.05.20 through 16A.05.72.

(Ord. 8-1995 §1 (5.52.020), 1995).

16A.05.52.030 — Conditions for Authorization.

Before a variance to the provisions of Chapters 16A.05.20 through 16A.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.~~

~~(Ord. 8-1995 §1 (5.52.030), 1995).~~

16A.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.~~

~~(Ord. 8-1995 §1 (5.52.040), 1995).~~

16A.05.52.050 — Notification of 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.~~

~~(Ord. 8-1995 §1 (5.52.050), 1995).~~

16A.05.52.060 — Power to Refer Decisions.

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

~~(Ord. 8-1995 §1 (5.52.060), 1995).~~

16A.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 16A.03.14(1).~~

~~(Ord. 8-1995 §1 (5.52.070), 1995).~~

~~Chapter 16A.05.72~~

MAP CORRECTION PROCEDURES

Sections:

~~16A.05.72.010 — Federal Flood Hazard Map Correction Procedures.~~

16A.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.

(Ord. 8-1995 §1 (5.72.010), 1995).

~~Chapter 16A.06~~

ENFORCEMENT AND PENALTIES

Sections:

~~16A.06.01 — Shoreline Management Act Violations and Penalties.~~

~~16A.06.02 — Enforcement Responsibilities Generally.~~

~~16A.06.03 — Enforcement Responsibilities — Chapter 16A.050 through 16A.05.72 Flood Hazard Permits~~

~~16A.06.04 — Violation — Penalty.~~

16A.06.01 — Shoreline Management Act Violations and Penalties.

Penalties and procedures pertaining to violations of RCW Chapter 90.58 (Shoreline Management Act) shall be governed by the provisions of RCW 90.58.030, 90.58.210, 90.58.220, 90.58.230, and WAC 173-17, and shall supersede the provisions of Sections 16A.06.02 and 16A.06.03 of this chapter.

(Ord. 8-1995 §1 (6.01), 1995).

16A.06.02 — Enforcement Responsibilities Generally.

It shall be the duty of the planning department to enforce the provisions of the Critical Areas Ordinance pertaining to all development within the jurisdiction of this Title 16A, except as expressly noted in Section 16A.06.03 below pertaining to flood hazard permits or development authorizations for flood-prone projects, as defined in Chapter 16A.03 of this title. Whenever any development is found to be in violation of this title or a critical area development authorization issued pursuant to this title, the administrative official 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" 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. No further progress shall be authorized unless and until compliance with the critical area development authorization conditions and/or terms of this title has been achieved to the satisfaction of the administrative official.

(Ord. 8-1995 §1 (6.02), 1995).

16A.06.03 — Enforcement Responsibilities — Chapters 16A.05.20 through 16A.05.72 Flood Hazard Permits.

It shall be the duty of the chief building official or his designee to enforce the provisions of Chapters 16A.05.20 through 16A.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.

(Ord. 8-1995 §1 (6.03), 1995).

16A.06.04 — Violation — Penalty.

(1) — Violation of the provisions of this title or failure to comply with any of its requirements constitutes a misdemeanor. 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.

(Ord. 8-1995 §1 (6.04), 1995).

~~—APPENDIX A~~

~~Yakima County Critical Areas Ordinance~~

WETLAND RATING SYSTEM

The most important wetland system in Yakima County is the Riverine System. The extent of the County's river system and its importance to the County's economic base (i.e., agriculture) justifies protecting wetlands associated with riverine corridors. Wetlands occurring within riverine environments, as well as wetlands occurring within other systems and those not hydrologically connected to a stream corridor, lake or pond, provide important ecological functions within the natural environment. These functions vary from wetland to wetland, but include providing water quality protection, flood control, shoreline stabilization, contributions to groundwater and stream flows, and wildlife and fisheries habitat. Also, many people value wetlands as natural areas providing aesthetic, recreational, and educational opportunities that should be preserved for future generations.

Wetlands in Yakima County as defined in the Yakima County Critical Areas Ordinance at Section 16A.02.425 are classified below to reflect their relative importance according to the functional properties set forth in Section 16A.04.02. Accordingly, they are afforded necessary protection in Section 16A.04.24 relative to their rating:

Type I wetlands have exceptionally high function and value;

Type II wetlands have high function and value;

Type III wetlands have moderate function and value;

Type IV wetlands have slight to moderate function and value.

The system developed to rate wetlands in Yakima County, while based on Washington State's Four Tier Wetland Rating System, has been calibrated to emphasize the local nature of wetlands found here. Wetlands are identified and designated based on the National Wetlands Inventory.

~~YAKIMA COUNTY WETLAND RATING SYSTEM~~

1. ~~TYPE I WETLANDS~~ are those wetlands which meet any of the following characteristics:

- a. ~~Presence of species listed by the federal government or the State of Washington as endangered, threatened, sensitive, or monitor, or the presence of critical or outstanding habitat for those species;~~
- b. ~~Wetlands consisting of 40% to 60% open water in dispersed patches and with two or more wetland vegetation classes (e.g., emergent, scrub shrub) present;~~
- c. ~~High-quality examples of a native wetland listed in the Terrestrial and/or Aquatic Ecosystem elements of the Washington Natural Heritage Plan;~~
- d. ~~Wetlands equal to, or greater, than 10 acres in size and with three or more wetland classes present, one of which is open water;~~
- e. ~~Wetlands comprised wholly or partially of plant associations of infrequent occurrence;~~
- f. ~~Wetlands of exceptional local significance. (The criteria for this category shall be developed and adopted by the appropriate local authority under appropriate public review. The criteria may include, but not be limited to, rarity, groundwater recharge areas, significant habitats, unique educational sites or other specific functional values.)~~

2. ~~TYPE II WETLANDS~~ include those wetlands which meet any of the following characteristics:

- a. ~~Wetlands greater than one acre in size;~~

- ~~b. Wetlands equal to or less than one acre in size and with three or more wetland classes present;~~
 - ~~c. Wetlands equal to or less than one acre in size with a forested wetland class present.~~
- ~~3. TYPE III WETLANDS include those wetlands that are equal to or less than one acre in size with two or fewer wetland classes present and are not rated as a Type IV Wetland.~~
- ~~4. TYPE IV WETLANDS are wetlands of less than 5,000 square feet that are hydrologically isolated from any water body or wetland regulated under that Shorelines Management Act and have only one wetland class which is not forested.~~

-APPENDIX B

Yakima County Critical Areas Ordinance

-DESIGNATED SHORELINE LAKES, PONDS AND TYPE 1 STREAMS

LAKES AND PONDS

LAKES	LOCATION	DESIGNATION
Byron Ponds	Sec. 12, T8N, R23E	Conservancy
Horseshoe Pond	Sec. 22, T9N, R22E	Conservancy
Morgan Pond	Sec. 25, T9N, R22E	Conservancy
Horseshoe Lake	Sec. 25, T9N, R22E	Conservancy
Giffin Lake	Sec. 26, T9N, R22E	Conservancy
Oleys Lake	Sec. 7, T9N, R23E	Conservancy
Freeway Lake	Sec. 7, T13N, R19E	Rural
Wenas Lake	Sec. 2, T15N, R17E	Conservancy
Priest Rapids Pool	Secs. 2 and 3, T13N, R23E	Conservancy
Rimrock Lake	T13 and 14N, R12, 13, 14E	Conservancy
Clear Lake	Secs. 1, 2, 11, 12, T13N, R12E	Conservancy
Lake Aspen	Secs. 11, 14, T13N, R18E	Urban
Willow Lake	Sec. 11, 14, T13N, R18E	Urban
Big Elton Pond	Sec. 31, T14N, R19E	Rural
Bumping Lake	T16N, R12E	Conservancy
Unnamed Lake (CB-E-301)	Sec. 35, T12N, R19E	Rural
Unnamed Lake (CB-F-300)	Sec. 21, T11N, R20E	Rural
Unnamed Lake (PS-E-311)	Sec. 17, T11N, R20E	Rural

TYPE 1 STREAMS

Ahtanum Creek - N Fork (both banks)	From the confluence of Ahtanum Creek North Fork and Ahtanum Creek Middle Fork (Sec. 24, T12N, R14E) downstream to mouth at Ahtanum Creek South Fork (Sec. 17, T12N, R16E)	Conservancy
Ahtanum Creek - S Fork (both banks)	From confluence of unnamed creek and Ahtanum Creek South Fork (Sec. 24, T12N, R15E) downstream to mouth at Ahtanum Creek	Conservancy
Ahtanum Creek - (both banks)	From confluence of North and South Forks of Ahtanum Creek (Sec. 17, T12N, R16E) downstream to the West line of Sec. 15, T12N, R17E, except	Conservancy

	Ahtanum Mission Site	
Ahtanum creek - (both banks)	From the West line of Sec. 15, T12N, R17E downstream to the South line of Sec. 8, T12N, R19E	Rural
Ahtanum Mission Site	Beginning at a point on the North line of Government Lot 1, Sec. 13, T12N, R16E, 1,093.7 feet South 89°45' East of the Northwest corner thereof; thence South 37°35' West 119.4 feet; thence South 6°30' West 123.6 feet; thence South 75°46' West 138.2 feet; thence South 61°40' West 182.6 feet; thence South 105.6 feet, more or less, to the Northeast corner of the existing old mission property; thence South 250 feet to the Southeast corner; thence West 350 feet to the Southwest corner of the said old mission property; thence North 666 feet, more or less, to the South right-of-way line of the Yakima County road; thence Northeasterly along said right-of-way line to the North line of said Lot 1; thence Easterly along the North line of said Lot 1 to the point of beginning	Natural
Columbia River - (right bank only)	From the Yakima Firing Center boundary (Sec. 3, T13N, R23E) downstream to Benton County line (Sec. 12, T13N, R23E)	Conservancy
Cowiche Creek South Fork - (both banks)	From the West line of the Northeast corner of Sec. 33, T14N, R16E downstream to the West line of Sec. 31, T14N, R17E	Conservancy
Cowiche Creek South Fork - (both banks)	From the West line of Sec. 31, T14N, R17E downstream to the South line of Sec. 2, T13N, R17E	Rural
Cowiche Creek South Fork - (both banks)	From the South line of Sec. 2, T13N, R17E, downstream to the West line of Secs. 8 and 17, T13N, R18E	Conservancy
Cowiche Creek South Fork - (both banks)	From the West line of Secs. 8 and 17, T13N, R18E downstream to the Northerly boundary line of the Burlington Northern railroad right-of-way in the Southeast quarter of Sec. 9, T13N, R18E	Rural
Bumping River - (both banks)	From the U.S.G.S. Gaging Station (Sec. 23, T16N, R12E) downstream to mouth of Naches and Little Naches River (Sec. 4, T17N, R14E)	Conservancy
Little Naches River - (both banks, Yakima County only)	From the confluence of the North and Middle Fork, Little Naches River (Sec. 36, T19N, R12E) downstream to mouth at Naches River (Sec. 4, T17N, R14E)	Conservancy
Naches River - (left bank only)	From the confluence of the Little Naches River and the Bumping River downstream to the South line of Sec. 21, T16N, R15E	Conservancy
Naches River - (left bank only)	From the South line of Sec. 21, T16N, R15E, downstream to the East line of Sec. 3, T15N, R15E	Rural
Naches river - (left bank only)	From the East line of Sec. 3, T15N, R15E, downstream to the center of the intersection of State Route 410 and State Route 12 within the Northeast quarter of Sec. 35, T15N, R16E	Conservancy
Naches River - (left bank only)	From the center of the intersection of State Route 410 and State Route 12 downstream to the South line of Sec. 11, T14N, R17E	Rural
Naches River - (left bank only)	From the South line of Sec. 11, T14N, R17E downstream to the East line of Sec. 36, T14N, R17E	Conservancy
Naches River - (left bank only)	From the East line of Sec. 36, T14N, R17E downstream to the South line of Sec. 31, T14N, R18E	Rural

Naches River – (left bank only)	From the South line of Sec. 31, T14N, R18E, downstream to the South line of Sec. 5, T13N, R18E	Conservancy
Naches River – (left bank only)	From the South line of Sec. 5 T13N, R18E downstream to the centerline of Sec. 9, T13N, R18E	Rural
Naches River – (left bank only)	From the centerline of Sec. 9, T13N, R18E downstream to the confluence of the Naches River and Yakima River	Conservancy
Naches River – (right bank only)	From the confluence of the Little Naches River and Bumping River downstream to the South line of Sec. 21, T16N, R15E	Conservancy
Naches River – (right bank only)	From the South line of Sec. 21, T16N, R15E downstream to the confluence of the Naches River and Rattlesnake Creek	Rural
Naches River – (right bank only)	From the confluence of the Naches River and Rattlesnake Creek downstream to the confluence of the Naches River and the Tieton River within Sec. 35, T15N, R16E	Conservancy
Naches River – (right bank only)	From the confluence of the Naches River and the Tieton River downstream to the East line of Sec. 36, T15N, R16E	Rural
Naches River – (right bank only)	From the East line of Sec. 36, T15N, R16E downstream to the East line of Sec. 5, T14N, R17E	Conservancy
Naches River – (right bank only)	From the East line of Sec. 5, T14N, R17E downstream to the South line of Sec. 11, T14N, R17E	Rural
Naches River – (right bank only)	From the South line of Sec. 11, T14N, downstream to the West right-of-way line of the Yakima Valley Transportation Company railroad within Sec. 12, T13N, R18E	Conservancy
Naches River – (right bank only)	From the West right-of-way line of the Yakima Valley Transportation Company railroad in Sec. 12, T13N, R18E downstream to the confluence of the Naches River and the Yakima River	Rural
Rattlesnake Creek – (both banks)	From the Snoqualmie National Forest boundary (Sec. 6, T15N, R15E) downstream to mouth at Naches River	Conservancy
Tieton River – (both banks)	From the West line of Sec. 29, T14N, R15E downstream to the confluence of the Tieton River and the Naches River	Conservancy
Tieton River – south fork – (both banks)	From the South line of Sec. 23, T12N, R12E downstream to mouth at Rimrock Lake, Sec. 17, T13N, R14E	Conservancy
Yakima River – (left bank only)*	From the Kittitas County line, Sec. 33, T15N, R19E downstream to the South line of Sec. 18, T14N, R19E	Conservancy
Yakima River – (left bank only)*	From the South line of Sec. 18, T14N, R19E downstream to the South line of Sec. 7, T13N, R19E	Rural
Yakima River – (left bank only)*	From the South line of Sec. 7, T13N, R19E downstream to the Southerly right-of-way line of Terrace Heights Drive in Sec. 20, T13N, R19E	Conservancy
Yakima River – (left bank only)*	From the Southerly right-of-way line of Terrace Heights Drive in Sec. 20, T13N, R19E downstream to the South line of Sec. 21, T13N, R19E	Urban
Yakima River – (left bank only)*	From the South line of Sec. 21, T13N, R19E downstream to the Southerly right-of-way line of State Route 24 in Secs. 28 and 33, T13N, R19E	Rural
Yakima River – (left bank only)*	From the Southerly right-of-way line of State Route	Conservancy

	24 in Secs. 28 and 33, T13N, R19E downstream to the East line of Sec. 28, T12N, R19E	
Yakima River – (left bank only)*	From the East line of Sec. 28, T12N, R19E downstream to the South line of Sec. 31, T11N, R21E	Rural
Yakima River – (left bank only)*	From the South line of Sec. 31, T11N, R21E downstream to the North line of Secs. 16 and 17, T10N, R21E	Conservancy
Yakima River – (left bank only)*	From the North line of Secs. 16 and 17, T10N, R21E downstream to the East line of Sec. 17, T10N, R21E	Rural
Yakima River – (left bank only)*	From the East line of Sec. 17, T10N, R21E downstream to the Northerly right-of-way line of State Route 223 within the Southeast quarter of Sec. 21, T10N, R21E	Urban
Yakima River – (left bank only)*	From the Northerly right-of-way line of State Route 223 downstream to the North line of Sec. 27, T10N, R21E	Conservancy
Yakima River – (left bank only)*	From the North line of Sec. 27, T10N, R21E downstream to the East line of Sec. 26, T10N, R21E	Rural
Yakima River – (left bank only)*	From the East line of Sec. 26, T10N, R21E downstream to the West line of Sec. 31, T10N, R22E	Conservancy
Yakima River – (left bank only)*	From the West line of Sec. 31, T10N, R22E downstream to the North line of Sec. 6, T9N, R22E	Rural
Yakima River – (left bank only)*	From the North line of Sec. 6, T9N, R22E downstream to the East line of said Sec. 6	Conservancy
Yakima River – (left bank only)*	From the East line of Sec. 6, T9N, R22E downstream to the East line of Sec. 20, T9N, R22E	Rural
Yakima River – (left bank only)*	From the East line of Sec. 20, T9N, R22E downstream to the East line of Sec. 25, T9N, R22E	Conservancy
Yakima River – (left bank only)*	From the East line of Sec. 25, T9N, R22E downstream to Benton County line	Rural
Yakima River – (right bank only)	From the Kittitas County line (Sec. 33, T15N, R19E) downstream to the South line of Sec. 18, T14N, R19E	Conservancy
Yakima River – (right bank only)	From the South line of Sec. 18, T14N, R19E downstream to the South line of Sec. 1, T13N, R18E	Rural
Yakima River – (right bank only)	From the South line of Sec. 1, T13N, R18E downstream to the confluence of the Naches River and the Yakima River	Conservancy
Yakima River – (right bank only)	From the confluence of the Naches River and the Yakima River downstream to the South line of Sec. 7, T13N, R19E	Rural
Yakima River – (right bank only)	From the South line of Sec. 7, T13N, R19E downstream to the South line of Sec. 20, T13N, R19E	Urban
Yakima River – (right bank only)	From the South line of Sec. 20, T13N, R19E downstream to the North line of the South half of the South half of Sec. 32, T13N, R19E	Rural
Yakima River – (right bank only)	From the North line of the South half of the South half of Sec. 32, T13N, R19E downstream to the South line of Sec. 17, T12N, R19E	Conservancy
Yakima River – (right bank only)	From the South line of Sec. 17, T12N, R19E downstream to the Northerly right-of-way line of State Route 223 within Sec. 21, T10N, R21E	Rural
Yakima River – (right bank only)	From the Northerly right-of-way line of State Route	Conservancy

	223 within Sec. 24, T10N, R21E downstream to the Easterly right-of-way line of the Sunnyside-Mabton Road within Secs. 30 and 31, T9N, R23E	
Yakima River—(right bank only)	From the Easterly right-of-way line of the Sunnyside-Mabton Road in Secs. 30 and 31, T9N, R23E downstream to the East line of Sec. 34, T9N, R23E	Rural
Yakima River—(right bank only)	From the East line of Sec. 34, T9N, R23E downstream to Benton County line	Conservancy

* Those islands in the Yakima River from Interstate 82 Bridge over the Yakima River in Sec. 12, T13N, R18E on the North, downstream to the South line of Sec. 8, T12N, R19E on the South are designated Natural Environments.

NOTE:

It is understood that river changes may alter somewhat the boundaries of the above-described Environments over a period of time. These changes are hereby incorporated by reference into this document so that the above-described Environments will shift with river changes.

Furthermore, the above-described Environments are outlined on Official Environment Designation Maps available for inspection in the Yakima County Planning Department. Where a conflict exists between the descriptions provided above and the maps, the descriptions shall prevail. Questions of interpretation shall be decided by the Administrative Official.

~~APPENDIX C~~

~~Yakima County Critical Areas Ordinance~~

DESIGNATED TYPE 2 STREAM CORRIDORS

The following stream reaches within Yakima County are designated critical areas under the Critical Areas Ordinance. "NSL" indicates the stream is not subject to the Shoreline Management Act. Any stream segments abutting federal lands or any Indian trust lands within the Yakima Indian Reservation are excluded.

1.	Ahtanum Creek, south fork	NSL: From USGS gaging station (SEC23-TWP12N-RGE15E) downstream to its confluence with unnamed creek (SEC24-TWP12N-RGE15E).
2.	Bachelor Creek	NSL: From source at Ahtanum Creek (SEC13-TWP12N-RGE16-EWM) downstream to its mouth at Ahtanum Creek (SEC1-TWP12N-RGE18E).
3.	Cottonwood Canyon Creek	NSL: From the south line of SEC32-TWP13N-RGE17E, downstream to mouth at Wide Hollow Creek (SEC36-TWP13N-RGE17E).
4.	Cottonwood Creek (Wenas)	NSL: From boundary of the L.T. Murray Wildlife Recreation Area (South line, SEC35-TWP15N-RGE18E) downstream to mouth at Wenas Creek (SEC12-TWP14N-RGE18E).
5.	Cowiehe Creek, north fork	NSL: Commencing at the north line of SEC36-TWP14N-RGE15E, downstream to its confluence with the South Fork of Cowiehe Creek (SEC3-TWP13N-RGE17E).
6.	Hatton Creek	NSL: From its source at Ahtanum Creek (SEC18-TWP12N-RGE17) downstream to its confluence with Ahtanum Creek (SEC8-TWP12N-RGE18E).
7.	Little Rattlesnake Creek	NSL: From the Wenatchee National Forest boundary (SEC30-TWP15N-RGE15E) downstream to mouth at Rattlesnake Creek (SEC3-TWP15N-RGE15N).
8.	Wide Hollow Creek	NSL: From the east line of the SW1/4 of the NW1/4 (SEC28-TWP13N-RGE17E) downstream to the municipal boundary for the City of Yakima (SEC34-TWP13N-RGE18E).
9.	Wenas Creek	NSL: From the east line of SEC5-TWP14N-RGE18E downstream to its mouth at the Yakima River (SEC18-TWP14N-RGE19E).

Chapter 16B.01

PURPOSE AND AUTHORITY

Sections:

- 16B.01.010 Purpose and Authority.
- 16B.01.020 Applicability.
- 16B.01.030 Legislative Decisions.
- 16B.01.040 Legislative Enactments not Restricted.
- 16B.01.050 Conflict of Provision.

16B.01.010 Purpose and Authority.

- (1) It is the purpose of this Title to effectively and efficiently administer applications for land use development activities (entitled "Project Permit Applications" by this Title) by creating a permit classification system with consistent procedures for similar application types, and by combining the environmental review process (SEPA), both procedural and substantive, with the procedures for review of project applications.
- (2) When a project permit application is filed, the project review process shall include land use, environmental, public, and governmental review so that documents prepared under different requirements can be reviewed together by the public and other agencies, in one project review process.
- (3) This integrated review process features the following elements.
 - (a) A determination of application completeness issued to the applicant within twenty-eight days of application submittal (Chapter 16B.04);
 - (b) A combined Notice of Application to the public and agencies with jurisdiction (Chapter 16B.05);
 - (c) A determination of the consistency of a proposed project with applicable development regulations and comprehensive plans (Chapter 16B.06);
 - (d) An optional consolidated permit review process for development proposals involving more than one application procedure (Section 16B.03.060);
 - (e) Provisions for use of existing comprehensive plans and development regulations in the environmental review of proposed projects subject to SEPA (Chapter 16B.06);
 - (f) Provisions for joint public hearings or meetings held with other local, state, regional or federal agencies with jurisdiction over a proposed project (Section 16B.08.070);
 - (g) A single report stating all the decisions made as of the date of the report on all project permits, including any environmental determinations, on a proposed permit project (Chapter 16B.07);
 - (h) Except for the appeal of a Determination of Significance under SEPA, no more than one open record hearing on a project permit (Section 16B.03.050); and,
 - (i) A notice of final decision issued within 120 days of the determination of application completeness (Chapter 16B.07).

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

16B.01.020 Applicability.

The provisions of this Title shall apply to all applications for land use or environmental permits subject to review under the following Chapters and Titles of the Yakima County Code.

- (1) Title 16 – Environment.

- (2) Titles 16A and 16C – Critical Areas.
- (3) Title 16D – Yakima County Regional Shoreline Master Program.
- (4) Title 19 – Unified Land Development Code.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 1-2010 Exh. A § 3, 2010: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

16B.01.030 Legislative Decisions.

The following actions are legislative, and are not subject to the project permit procedures in Chapters 16B.03, 16B.04, 16B.07, 16B.08, 16B.09 and 16B.11 of this Code, unless otherwise specified:

- (1) Adoption and amendment of development regulations as defined by RCW 36.70A;
- (2) Area-wide rezones to implement new county policies; and
- (3) Adoption of the county comprehensive plan, sub-area plans, other general purpose or specific county plans and any plan amendments.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

16B.01.040 Legislative Enactments not Restricted.

Nothing in this Title shall limit the authority of the Board of County Commissioners to amend the County's comprehensive plan or development regulations.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

16B.01.050 Conflict of Provision.

In the event of conflicts between any portion of this Title and other rules, regulations, resolutions, ordinances or statutes lawfully adopted by Yakima County, the procedures contained in this Title shall govern.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

New Binding Site Plans for commercial and industrial development (19.34.080)	
Administrative Adjustments to standards authorized (19.35.020)	
Type 3 Review	
Conditional Uses shown on the land use table in Chapter 19.14	
Plat vacations or alterations under Chapter 58.17 RCW	
Major modifications to a Master Development Plan or Development Agreement (19.35.055(3))	
Type 4 Review⁽¹⁰⁾	
Type 4 Quasi-judicial uses or development shown on the land use table in Chapter 19.14	
Master Planned Resorts (MPRs) in rural or resource areas (19.11.050)	
New or expanded Master Planned Developments in Urban Growth Areas (19.17.040)	
Subdivision Applications (19.34.050)	
Major amendments to approved preliminary subdivision (19.34.050(9)(c)) ⁽¹¹⁾	
Major modification to a Master Planned Resort or Planned Development (19.35.050(2))	
Minor Rezones (19.36.030) ⁽¹⁰⁾	
Title 16 – Chapter 16.04 – Yakima County SEPA Ordinance	
Application	Process Type
Environmental Review (SEPA Checklist)	Type 2 ⁽⁷⁾
Titles 16A and 16C – Yakima County Critical Areas Ordinance and Title 16D – Yakima County Regional Shoreline Master Program	
Application	Process Type
Floodprone Permit (16A.16C.05) ⁽¹³⁾	Type 1
Floodprone Development Variance (16C.05.52 or 16A.05.52) & (16D.05.52) ⁽¹³⁾	Type 2 ⁽⁴⁾
Flood Hazard Permit (16C.05.44.040 or 16A.05.44) & (16D.05.44.050) ⁽¹³⁾	Type 1
Standard Development Permit (16C.03.20 or 16A.03.10)	Type 1 ⁽⁶⁾
Critical Areas Adjustment (16C.03.23 or 16A.03.13 & 16A.04.25)	Type 2
Critical Areas Reasonable Use Exception (16C.03.24)	Type 3
Minor Revision to approved uses/development (16C.03.25 or 16A.03.15) & (16D.03.25)	Type 1
Non-Conforming Use/Facility Alteration (16C.03.26) & (16D.03.26)	Type 2 ⁽⁸⁾
Non-Conforming Structures or Areas (16C.03.26 or 16D.03.26) & (16D.05.40.020)	Type 2 ⁽⁹⁾
Shoreline Exemption (16D.03.05) & Exemption from Critical Area development authorizations (16A.01.06)	Type 1
Shoreline Substantial Development Permit (16D.03.19 & 16D.10.05 & Table 16D.10.05)	Type 2 ⁽⁴⁾
Shoreline Conditional Use Permit (16D.03.21 & 16D.10.05 & Table 16D.10.05)	Type 2

Shoreline Variance (16D.03.22)	Type 2
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Notes:

- (1) Final plat applications are subject to determination of completeness as required by Section 16B.04.030 – 060. However, once the application is deemed complete, i.e. – all requirements of the preliminary plat resolution as signed by the BOCC have been met, the final plat is forwarded to the BOCC for signature at its next regular agenda meeting.
- (2) The Administrative Official reviews applications subject to Type 1 review under the procedures of Section 19.30.090 and YCC Chapter 16B.03 for compliance with Title 19. Type 1 Uses listed in Subsection 19.30.030(1)(d) are generally not subject to project review by the Administrative Official provided all applicable standards of the Title are met and/or when categorically exempt from environmental review under YCC Section 16.04.100, or for which environmental review has been completed in connection with other project permits, and when locating on an existing lot.
- (3) The compatibility between a Type 2 Administrative Use and the surrounding environment cannot always be determined in advance. Therefore, a Type 2 Administrative Use may be conditioned to ensure compatibility and compliance with the provisions of the zoning district and the goals, objectives and policies of the Comprehensive Plan.
- (4) Type 2 review. Administrative Use applications, Floodprone (as defined in YCC Titles 16A, 16C and 16D) Development Variances, Zoning Variances, Administrative Adjustments and Substantial Development permits may be referred by the Administrative Official to the Hearing Examiner for final decision, in a manner similar to a Type 3 application.
- (5) Type 3 review required for Type 2 Administrative Uses referred by the Administrative Official for Hearing Examiner review and for other specific reviews established by Title 19. Such referred reviews are subject to the criteria of 19.30.030(2)(b)(iv) for Type 2 uses.
- (6) Standard Development permits under the Critical Areas Ordinance may be processed for final decision as Type 2 project permits rather than as Type 1 permits at the discretion of the Administrative Official.
- (7) SEPA determinations where the underlying permit is Type 1 shall be circulated to agencies with expertise or jurisdiction as defined in WAC 197-11-714 and listed in YCC 16B.05.030(3) but notice to adjacent property owners is not required.
- (8) The term “alteration” in a zoning context may include changing from one nonconforming use to another nonconforming use, but does not include intensification. Certain nonconforming use alterations may not be subject to additional critical area or Shoreline review as described in YCC 16C.03.26(2)(b) and 16D.03.26(2)(b).
- (9) No additional Critical Area or Shoreline review required if reconstruction cost of a conforming use with a nonconforming structure or area is less than 75 percent of value before damage or destruction. See YCC 16C.03.26(2)(a) and 16D.03.26(2)(a).
- (10) The process for review of Type 4 applications shall be as set forth in YCC Subsection 16B.03.030(1)(d) and Section 19.30.080 and the process for Minor Rezone applications shall be as set forth in Section 19.36.030.
- (11) Minor changes or correction of errors to approved preliminary short plats and alteration or vacation of recorded short plats not involving a change in lot lines or conditions may be made by the surveyor through the Type 1 review process by recording an

affidavit with the County Auditor referencing the short plat by number and the correction.

(12)

Critical Areas Titles 16A or 16C may apply to property based on agricultural use. Refer to Title 16C to determine jurisdiction.

(13)

The Building Official issues flood hazard permits under Chapter 5 of Titles 16A, 16C and 16D. (N)

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exhs. A, B) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

16B.03.050 Limitations on Open Record Public Hearings and Closed Record Hearings.

Except for the appeal of a SEPA Determination of Significance, no more than one consolidated open record appeal or hearing may occur on SEPA threshold determinations or project permit decisions and no more than one consolidated closed record hearing may occur on project permit decisions.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

16B.03.060 Optional Consolidated Permit Review Process.

Two or more project permits relating to a proposed project action may be processed collectively under the highest numbered category of project permit required for any part of the proposal or processed individually under each of the procedures identified by the code. The applicant may determine whether the project permits shall be processed collectively or individually. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to and separately from the subsequent lower numbered procedure. Construction permits may be issued only after all other required land-use decisions have been made and all applicable appeal periods have passed.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

16B.03.070 Administrative Interpretations.

Upon request the applicable official designated in Subsections 2 through 4 of this Section shall issue a formal written interpretation of a development regulation. The purpose of an interpretation is to clarify conflicting or ambiguous wording or the scope or intent of the County Code.

(1) The interpretation request shall be on a form provided by the Planning Division and shall include identification of the regulation in question, a description of the property (if applicable), a clear statement of the issue or question to be decided, a statement addressing why an interpretation is necessary and shall set forth a legal and factual basis in support of the proposed interpretation.

(2) The Administrative Official or his/her designee shall interpret and apply the provisions of YCC Title 16 (SEPA) Environment, Titles 16A and 16C – Critical Areas Ordinances, Title 16B – Project Permit Administration, Title 16D – Yakima County Regional Shoreline Master Program, and Title 19 – Unified Land Development Code. Interpretations shall be first presented to the Administrative Official but are subject to appeal to the Hearing Examiner.

(3) The Administrative Official is authorized under Chapter 19.31 to determine whether a proposed use is not classified in any category of the land use table in Chapter 19.14 but is consistent in character with the purpose of the Zoning District.

(4) The Hearing Examiner shall issue similar use interpretations regarding any provisions of the Yakima County Unified Land Development Code (Title 19), as specified by Chapter 19.31, and any interpretation matter referred by the Administrative Official. The Hearing Examiner shall determine when a hearing is required for such interpretations. Interpretations by the Hearing Examiner are final and not subject to further administrative appeal.

(5) An interpretation of the provisions of a development regulation shall not be used to amend any development regulation in Yakima County Code, such as any provision affecting required location of land uses or review

TITLE 16C
CRITICAL AREAS*

Chapters:

- 16C.01 General Provisions**
- 16C.02 Definitions**
- 16C.03 Application and Review Procedures**
- 16C.04 Enforcement and Penalties**
- 16C.05.20 Flood Hazard Areas – General Provisions**
- 16C.05.28 Flood Hazard Protection Standards**
- 16C.05.32 Floodway Fringe Uses**
- 16C.05.36 Floodway Uses**
- 16C.05.40 Nonconforming Uses and Structures**
- 16C.05.44 Flood Hazard Protection Administration**
- 16C.05.48 Elevation and Floodproofing Certification**
- 16C.05.52 Variances**
- 16C.05.72 Map Correction Procedures**
- 16C.06 Fish and Wildlife Habitat and the Stream Corridor System**
- 16C.07 Wetlands**
- 16C.08 Geologically Hazardous Areas**
- 16C.09 Critical Aquifer Recharge Areas (CARAs)**
- 16C.11 Upland Wildlife Habitat Conservation Areas**
- Appx. A Designated Type 2 Stream Corridors**
- Appx. B Priority Habitat and Species (PHS)**

* Editor's Note: Ord. 13-2007 adopts this title, Title 16C, Critical Areas, which applies to all unincorporated lands under Yakima County's land use jurisdiction, ~~except for lands under jurisdiction of the Shoreline Management Act and lands subject to the requirements of Substitute Senate Bill 5248 for agricultural activities conducted on agricultural and rural lands. The provisions of Title 16A of this code are retained for the regulation of agricultural activities on designated agricultural and rural lands.~~ Ord. 14-2007, codified as Title 16D of this code, adopts the Shoreline Master Program, which shall regulate critical areas within shoreline jurisdiction.

Chapter 16C.01
GENERAL PROVISIONS

Sections:

- 16C.01.01 Title and Authority.
- 16C.01.02 Language Interpretation.
- 16C.01.03 Purpose of Title.
- 16C.01.04 Intent of Title.
- 16C.01.05 Applicability.
- 16C.01.06 Science and Protection of Anadromous Fish.
- 16C.01.08 Administrative Authority.
- 16C.01.09 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, 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.”

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.01.01), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.01.02), 2007).

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) Ensure a single, uniform system of procedures and standards be applied to development within designated critical areas of unincorporated Yakima County.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.01.03), 2007).

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, 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 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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 §1 (Exh. A)(16C.01.04), 2007).

16C.01.05 Applicability.

(1) Except as provided in subsection (3) 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 title. It is the intent of this title to permit these pre-existing legal nonconformities to continue without requirement to change said nonconformity 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 (YCC Title 16A);
- (ii) Critical Areas Ordinance amended October 1, 1995 (YCC Title 16A);

- (iii) Flood Hazard Ordinance adopted June 5, 1985;
 - (iv) Critical Areas Ordinance amended December 15, 2007 (GMA Update - YCC Title 16C);
 - (v) Critical Areas Ordinance amended June 30, 2017 (GMA Update - YCC Title 16C);
 - (vi) Critical Areas Ordinance amended Month Day, Year (Repeal of 16A).
- (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 nonforestry 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 Section 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) as 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 developed 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(+)).
- (a) If the ~~the~~ work plan developed by the VSP working group is was approved by the Washington State Conservation Commission on October 30, 2017, therefore the provisions or standards of this title will not apply to agricultural activities prior to July 22, 2011, 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 approved work plan is not approved by the Washington State Conservation Commission, or fails to meet goals, and benchmarks, or receive adequate funding, the provisions and policies of the this title will apply to agricultural activities (RCW 36.70A.735).

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 §1 (Exh. A)(16C.01.05), 2007).

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).

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 §1 (Exh. A)(16C.01.06), 2007).

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 Section 16B.03.070.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 §1 (Exh. A)(16C.01.08), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 §1 (Exh. A)(16C.01.09), 2007).

16C.02.295 Native.

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

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.295), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.300), 2007).

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 amended 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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.302), 2007).

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 the amended 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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.303), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.304), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.305), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.310), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.320), 2007).

16C.02.321 Qualified Professional.

A "qualified professional" shall meet the following criteria:

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.366), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.367), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.368), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.370), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.380), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.390), 2007).

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 the amended 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 of Historic Places or a state inventory of historic places.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.395), 2007).

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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.400), 2007).

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 Section 16C.06.05 (Functional Properties) and Section 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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.415), 2007).

16C.02.425 Wetland.

“Wetland” or “wetlands” means 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 do 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 nonwetland 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. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.425), 2007).

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).

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.02.430), 2007).

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.

Chapter 16C.05.40

NONCONFORMING USES AND STRUCTURES

Sections:

- 16C.05.40.010 Generally.
- 16C.05.40.020 Nonconforming Uses of Land.
- 16C.05.40.030 Nonconforming Structures.
- 16C.05.40.040 Improvements.
- 16C.05.40.050 Restoration.
- 16C.05.40.060 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 amended 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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.05.40.010), 2007).

16C.05.40.020 Nonconforming 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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A)(16C.05.40.020), 2007).

16C.05.40.030 Nonconforming 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

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 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 that 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 19-21 points (out of 27) 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 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 16 - 18 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 16 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 amended 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 cannot 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.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 13-2007 §1 (Exh. A)(16C.07.04), 2007).

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 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 Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans or as revised (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 8D.3" or as revised (Washington State Department of Ecology. Publication No. 05-06-008 - <https://fortress.wa.gov/ecy/publications/parts/0506008part2.pdf>).

TITLE 16D
SHORELINE MASTER PROGRAM*

Chapters:

- 16D.01 General Provisions**
- 16D.02 Definitions**
- 16D.03 Application and Review Procedures**
- 16D.04 Enforcement and Penalties**
- 16D.05.20 Flood Hazard Areas – General Provisions**
- 16D.05.28 Flood Hazard Protection Standards**
- 16D.05.32 Floodway Fringe Uses**
- 16D.05.36 Floodway Uses**
- 16D.05.40 Nonconforming Uses and Structures**
- 16D.05.44 Flood Hazard Protection Administration**
- 16D.05.48 Elevation and Floodproofing Certification**
- 16D.05.52 Variances**
- 16D.05.72 Map Correction Procedures**
- 16D.06 Fish and Wildlife Habitat and the Stream Corridor System**
- 16D.07 Wetlands**
- 16D.08 Geologically Hazardous Areas**
- 16D.09 Critical Aquifer Recharge Areas (CARA)**
- 16D.10 Shorelines**
- 16D.11 Upland Wildlife Habitat Conservation Areas**
- Appx. A Designated Type 2 Stream Corridors**
- Appx. B Yakima County Shoreline Lakes and Ponds and Their Environmental Designations**
- Appx. C Yakima County Shoreline Streams and Their Environmental Designations**

* Editor's Note: Ord. 13-2007 adopts Title 16C, Critical Areas, which applies to all unincorporated lands under Yakima County's land use jurisdiction, except for lands under jurisdiction of the Shoreline Management Act and lands subject to the requirements of Substitute Senate Bill 5248 for agricultural activities conducted on agricultural and rural lands. The provisions of Title 16A of this code are retained for the regulation of agricultural activities on designated agricultural and rural lands. Ord. 14-2007, codified in this Title 16D, adopts the Shoreline Master Program, which shall regulate critical areas within shoreline jurisdiction.

16D.02.295 Native.

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

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.02.302 New Construction.

"New construction" for purposes of administering Chapters 16D.05.20 through 16D.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 amended ordinance codified in this title 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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.02.303 Nonconforming Structure.

"Nonconforming structure" for purposes of administering Chapters 16D.05.20 through 16D.05.72 means a structure which was legally constructed prior to October 1, 1995, the effective date of this title, 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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.02.304 Nonconforming Use.

"Nonconforming use" for purposes of administering Chapters 16D.05.20 through 16D.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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.02.305 Ordinary High Water Mark (OHWM).

"Ordinary high water mark" 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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.02.321 Qualified Professional.

"A qualified professional" shall meet the following criteria:

Chapter 16D.05.40

NONCONFORMING USES AND STRUCTURES

Sections:

- 16D.05.40.010 Generally.
- 16D.05.40.020 Nonconforming Uses of Land.
- 16D.05.40.030 Nonconforming Structures.
- 16D.05.40.040 Improvements.
- 16D.05.40.050 Restoration.
- 16D.05.40.060 Discontinuance.

16D.05.40.010 Generally.

(1) Within the special flood hazard areas established by Chapters 16D.05.20 through 16D.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 16D.05.20 through 16D.05.72 or future amendment.

(2) It is the intent of Chapters 16D.05.20 through 16D.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 16D.05.20 through 16D.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 amended ordinance codified in YCC Title 16A, shall be used as it applies to all other critical areas requirements established under YCC Title 16A by Ordinance 8-1995.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.05.40.020 Nonconforming Uses of Land.

If, on October 1, 1995, the effective date of Chapters 16D.05.20 through 16D.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 16D.05.20 through 16D.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 16D.05.20 through 16D.05.72 and YCC Title 19.

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.05.40.030 Nonconforming Structures.

(1) If, on October 1, 1995, the effective date of Chapters 16D.05.20 through 16D.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

Chapter 16D.07

WETLANDS

Sections:

- 16D.07.01 Purpose and Intent.
- 16D.07.02 Designating and Mapping.
- 16D.07.03 Protection Approach.
- 16D.07.04 Wetland Functions and Rating.
- 16D.07.05 Compensatory Mitigation Requirements.
- 16D.07.06 Wetland Mitigation Banks.

16D.07.01 Purpose and Intent.

The purpose and intent of the provisions protecting wetland critical areas are equivalent to the purpose and intent for Chapter 16D.06.01 (Purpose and Intent).

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.07.02 Designating and Mapping.

(1) Wetlands are those areas that meet the definition found in Section 16D.02.425 as provided in RCW 36.70A.030(20). 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 nonregulated, 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 U.S. 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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.07.03 Protection Approach.

(1) Wetlands will be protected using the protection approach for hydrologically related critical areas found in 16D.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 (16D.06), which includes provisions to:

- (a) Follow mitigation sequencing as outlined in section 16D.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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.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 (Ecology Publication No. 04-06-15, <http://www.ecy.wa.gov/pubs/0406015.pdf>) 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;
 - (ii) Natural Heritage Wetlands. Wetlands that are identified by scientists of the Washington Department of Natural Resources Natural Heritage Program as high quality, relatively undisturbed wetlands, or wetlands that support state threatened or endangered plant species;
 - (iii) Bogs;
 - (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 species (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;
 - (vi) Wetlands scoring 70 points or more (out of 100) 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;
 - (ii) Mature and old-growth forested wetlands with native fast growing trees, which include alders (Red – *Alnus rubra*, Thin leaf – *A. tenuifolia*), cottonwoods (Narrow leaf – *Populus angustifolia*, Black – *P. balsamifera*), willows (Peach leaf – *Salix amygdaloides*, Sitka – *S. sitchensis*, Pacific – *S. lasiandra*); aspen (*Populus tremuloides*); or Water Birch (*Betula occidentalis*);
 - (iii) Vernal pools;
 - (iv) Wetlands scoring between 51 and 69 points (out of 100) 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 30 and 50 points) in the Eastern Washington Wetland Rating System.
- (d) Category IV wetlands have the lowest levels of functions, scoring less than 30 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 amended 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 cannot 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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.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 16D.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 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 04-06-013B, http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.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-D3 or as revised (Washington State Department of Ecology. Publication number 05-06-008, http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

16D.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;
 - (i) The administrative official determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - (ii) 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.

(Ord. 14-2007 § 1 (Exh. A) (part), 2007).

Chapter 19.01
GENERAL PROVISIONS

Sections:

- 19.01.010 Introduction.
- 19.01.020 Compliance.
- 19.01.030 Severability and Validity.
- 19.01.040 Repealer.
- 19.01.050 Authority.
- 19.01.060 Enforcement.
- 19.01.070 Definitions.

19.01.010 Introduction.

(1) **Title.** Title 19 of the Yakima County Code constitutes and may be cited as the Unified Land Development Code (ULDC).

(2) **Legislative Intent.** To improve public service and efficiency, the Board of Yakima County Commissioners has adopted this Title, which consolidates several of the County's development-related codes into a single document. This Title applies to all of unincorporated Yakima County within the County's land-use jurisdiction and includes:

- (a) **Subtitle 19.0** Introduction, code organization, administration and definitions of terms;
- (b) **Subtitle 19.1** Land use zoning districts and use regulations and stormwater and erosion control;
- (c) **Subtitle 19.2** Development standards for signs; site screening and landscaping; parking and loading; transportation and circulation; sewer and water;
- (d) **Subtitle 19.3** Procedures for the development and division of land; amendment of the code; and processing under the State Environmental Policy Act (SEPA).

(3) **Organization.** The text of this Title is organized:

- (a) **Title.** This Title in its entirety is Title 19 of the Yakima County Code.
- (b) **Subtitles.** Subtitles are numbered as 19.#, establish the major categories and start new Chapter number series.
- (c) **Chapters.** Chapters are numbered as 19.##, with the second group of numbers representing the Chapter number, the first digit of which is the Subtitle number.
- (d) **Sections.** Sections are numbered as 19.##.###, with the second group of numbers representing the Chapter number and the third group of numbers representing the Section number.
- (e) **Subsections.** Subsections levels are indicated by alphanumeric characters in the following hierarchy: (1), (a), (i) and (A).

(Ord. 6-2017 § 2(C) (Exh. I) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.01.020 Compliance.

(1) **Development Permit Compliance Required.**

- (a) Applications for development may be approved or approved with conditions if the application conforms to adopted County and State rules and regulations or variations permitted by law, including:

- (i) Chapter 43.21C RCW (State Environmental Policy) and Yakima County SEPA Rules (Ch. 16.04 YCC);
- (ii) Chapter 58.17 RCW (Subdivisions);
- (iii) Chapter 36.70A RCW (Growth Management Act);
- (iv) Chapter 36.70B RCW (Local Project Review);
- (v) Yakima Health District Board of Public Health – water and sewer rules and regulations;
- (vi) Yakima County Code:
 - (A) Title 12, Water and Sewage;
 - (B) Title 13, Building and Construction;
 - (C) Unified Land Development Code;
 - (D) Title 16B, Project Permit Administration;
 - (E) ~~Titles 16A and 16C, Critical Areas and Yakima County Code~~ Title 16D, Regional Shoreline Master Program;
- (vii) Comprehensive plans adopted by Yakima County, Yakima County Regional Shoreline Master Program, subarea plans and their official maps.

(b) No development shall occur nor shall any building or other structure be constructed, erected, repaired, improved, altered, enlarged, moved, removed, converted, or demolished; nor shall any use or occupancy of premises within the County be commenced or changed; nor shall any condition of or upon real property be caused or maintained, after the effective date of this Title, except as authorized by this Title and in conformity and full compliance with conditions established. It is unlawful for any person, firm or corporation to erect, construct, establish, move into, alter, enlarge, use or cause to be used, any buildings, structures, improvements or use of premises contrary to this Title. Where this Title imposes greater restrictions than those imposed or required by other rules, regulations or ordinances, this Title shall control.

(c) Development permits issued on the basis of plans and applications and conditions of approval imposed by the Reviewing Official authorize only the use, arrangement and construction set forth in the approved plans and application with any associated conditions of approval and the final site plan. Any use, arrangement, or construction inconsistent with that authorized violates this Title and is punishable as provided in YCC Chapter 16B.11.

(2) **Site Plan Compliance Required.** Whenever any site plan is required by operation of this Title and is part of any approval of development or modification of development, the final site plan shall be binding on all existing or subsequent owners and occupiers of the property. The owner and/or occupier of any property, development, or structure that is the subject of a final site plan shall be required to maintain the property and development in full compliance with the terms and conditions of the approved final site plan and any associated terms and conditions of approval for the development. Failure to do so shall constitute a violation of this Title and is punishable as provided in YCC Chapter 16B.11.

(3) No building or other structure shall be erected, moved, added to or structurally altered without a permit therefore, issued by the Building Official under RCW 19.27 and YCC Title 13. No building permit shall be issued except in conformity with this Title.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

Structure	"Structure" means anything constructed or erected which requires location on the ground or attached to something having a location on the ground, and as defined under Title 13.
structure, Temporary	"Temporary structure" means a structure without foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
Subdivider	"Subdivider" shall be defined as a person, including a corporate person, who undertakes to create, alter or expand a subdivision or short subdivision.
Subdivision	"Subdivision" is the division or re-division of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership.
Substantial completion	"Substantial completion" when referring to transportation facilities, means that all public or private facilities are constructed, functional and operational, even though they may not be fully completed nor provisionally accepted, including sewer and water systems, storm drainage facilities and street improvements (including construction of the initial lift of asphalt or other approved surfacing), but not necessarily including sidewalks, or electrical, gas, telephone or cable services; and that the project is in full compliance with the erosion control ordinance.
Substantial improvements	"Substantial improvements" 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 purpose of this definition "substantial improvements" occur 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 the amendments to Title 16A, shall be used to define "substantial improvements" 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 that are solely necessary to assure safe living conditions, or (2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.
Swimming pool	"Swimming pool" means a contained body of water, used for swimming or bathing purposes, either above ground level or below ground level, with the depth of the container being more than eighteen (18) inches or they are being more than thirty-eight (38) square feet.

(20) "T" Definitions.

Tasting room	"Tasting room" means a facility at which guests may sample and purchase alcoholic beverages and where retail sales of merchandise related to the products being tasted are sold. Level 1 food service may be offered, subject to Yakima Health District licensing, not to exceed the terms of the development authorization and zoning district.
Tavern	"Tavern" means an establishment operated primarily for the sale of wine and beer.
Technical equipment	"Technical equipment" means medical, dental, fire suppression, restaurant, etc.
Tent	"Tent" means a temporary structure, enclosure or shelter constructed of fabric or pliable material supported in any manner, except by air or the contents it protects.
Towing services	"Towing services" means a service to haul or tow vehicles for service, repair or temporary storage. Any facility except for wrecking yards, storing a vehicle as required under RCW 46.55. Hulk Haulers are not included under this definition.
Tract	"Tract" means land reserved for specified uses including, but not limited to, reserve tracts, recreation, open space, critical areas, surface water retention, utility facilities and access. Tracts are not considered lots or building sites for purposes of residential dwelling construction.
Transient	"Transient" means any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property for less than one month or less than thirty continuous days if the rental period does not begin on the first day of the month. An occupant remaining in continuous occupancy for thirty days or more is considered a nontransient upon the thirtieth day. An occupant who contracts in advance and does remain in continuous occupancy for the initial thirty days will be considered a nontransient from the start of the occupancy. (WAC 458-20-166(2))
Transient accommodation	"Transient accommodations" means any facility such as a hotel, motel, condominium, resort or any other facility or place offering three or more lodging units to travelers and transient guests.

directed downward and otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles. See Figures 19.10.040-3 and 19.10.040-4 below.

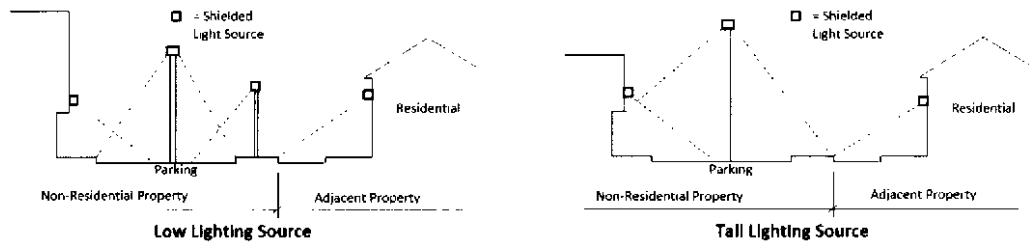


Figure 19.10.040-3. Lighting sources shielded to minimize light pollution and intrusion onto neighboring uses.

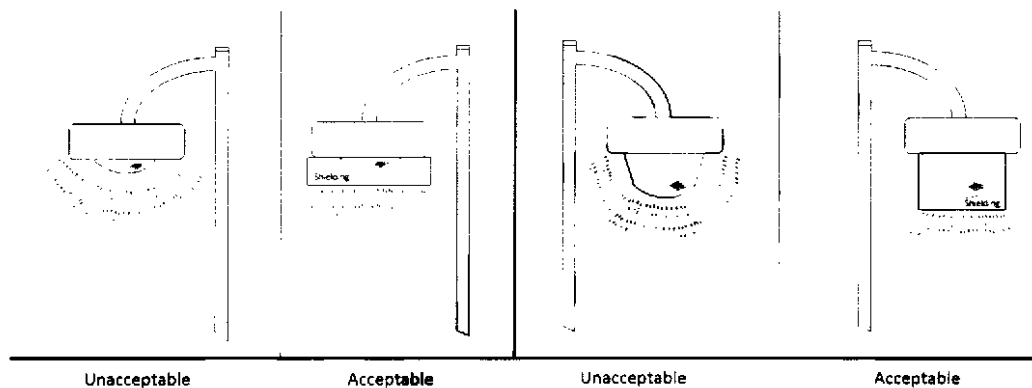


Figure 19.10.040-4. Examples of acceptable and unacceptable fixtures for shielding of exterior light.

(11) **Floodplain Development.** A pre-application meeting and a Flood Hazard Permit application is required for all new developments in floodplains in order to minimize and mitigate potential adverse impacts to property and infrastructure while reducing risks to public health and safety. Yakima County will utilize existing flood hazard data and mapping to assist applicants with the layout and design of their proposal. If the potential adverse impacts cannot be mitigated through the Flood Hazard Permit under YCC 46A.05, 16C.05 and 16D.05, a critical areas and shoreline permit will be required under Yakima County Critical Areas and Shoreline codes.

(12) **Stormwater Requirements.** This section is intended to ensure public and private development projects comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable. Stormwater quality and quantity concerns for project permits shall be addressed through:

- (a) YCC Chapter 12.10;
- (b) The environmental review process established by RCW 43.21C and YCC Chapter 16.04; or
- (c) The requirements of the Washington Department of Ecology.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 8-2015 § 2 (Exh. 4) (part), 2015; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

- (x) What restrictions should or should not be imposed to secure the purposes of this Section and to protect the public and surrounding property owners; and
 - (xi) The extent to which any of the criteria contained herein does not apply.
- (6) **Ownership.** No permit shall be issued for a premise, except with written consent of the owner or owners. Permission to engage in the use is granted to only the permit applicant or the permit applicant's transferee. Permits shall be transferable, unless the approval specifies otherwise; provided, that the transferee submits proof that the performance bond or other security required under Section 19.30.130 remains in effect. Transferees shall engage in the use authorized by the permit only to the extent authorized by this Section and the permit itself.
- (7) **Restrictions upon Operations.** Reasonable restrictions upon operations may be imposed that are calculated to secure the purposes of this Section, the Comprehensive Plan and this Title. Such restrictions may relate to any activity anticipated from the use proposed. Examples would be: hours of operation, traffic volume, types of materials processed, volumes of materials handled, setbacks, etc.
- (8) **Future Use of Premises.**
- (a) **Land Use and Zoning.** The future use of the premises may be limited, as a condition of granting the project permit to ensure those uses of the property to be effectuated when the use concluded will be consistent with the character of the land and surrounding existing and permitted land uses and zoning. After the conclusion of the conditional use, the property owner or occupier will be entitled to engage in any appropriate uses allowable in the zoning district in which the use was located.
 - (b) **Future Reclamation or Landfill Closure.** A binding plan of future reclamation of the land shall be required, which shall be consistent with any other required reclamation plan, such as for the Washington Department of Ecology, Department of Health, Department of Natural Resources or other State agency.
 - (c) **Future Development.** A binding plan of future development of land consistent with the Yakima County Solid Waste Management Plan may be required.
 - (d) **Change in Zoning.** If the nature of the use is such that other land uses allowed in the zoning district in which the property is located would no longer be suitable land uses when the use is concluded a change in zoning to a designation that would more clearly reflect the appropriate land uses may be considered or may be required as a condition of permit approval as a prerequisite which must be accomplished before the permit may be issued.
- (9) **Permit Period – Renewals – Reviews.** Permit periods may vary. However, the Reviewing Official shall specify either a date upon which a permit expires, or the occurrence of an event upon which the permit expires. The permit period shall be of sufficient duration to ensure the completion of the use for which the permit is required. No permit shall be granted for a period of time in excess of 20 years. Extension normally available for other types of project permits through YCC Section 16B.07.050 is not available to solid waste handling and disposal site permits. Renewals of such permits shall be processed as new applications.
- (10) **Performance Bonds.** Performance bonds or other security acceptable to the County in an amount deemed satisfactory to the Administrative Official, in consultation with the County Engineer, to cover the costs of ensuring compliance with this Title and the terms and conditions of any permit issued, including required reclamation, shall be required as a condition of permit approval. (See Section 19.30.130).

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.18.460 Aggregate Stockpiling.

Aggregate stockpiling or storing recycled asphalt or concrete shall only be permitted within floodplains and other hydrologically related critical areas, when authorized by an appropriate critical area/shoreline permit (See YCC Titles 16A, 16C and 16D).

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

(iii) Private road name signs shall be provided by the developer at the intersections of private roads with private roads and at the intersection of private roads with public roads. Such signs shall meet the specifications in the Manual on Uniformed Traffic Control Devices. Names for private roads shall be approved by the County under the Road Naming and Site Addressing Ordinance YCC Chapter 13.26.

(iv) The property owners shall be responsible for maintaining private roads and the signs within private roads.

(v) Private roads shall be open and unobstructed for use by emergency, public service and utility vehicles.

(vi) The face of any plat or short plat containing a private road, and all subsequent documents transferring ownership of lots within such plat or short plat, shall bear the following language:

Yakima County has no responsibility to build, improve, maintain or otherwise service any private road for this plat/short plat. Any right-of-way dedicated to the public by this plat/short plat shall not be opened as a County road until it is improved to County road standards and accepted as part of the County road system.

(Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.23.060 Private Shared Driveways.

(1) When Allowed. Private shared driveways may only be approved when the Reviewing Official determines that all the following criteria are met, based on documentation provided by the applicant or other evidence:

(a) The private, shared driveway will not serve more than four lots or units, or, due to topographical or other physical constraints as determined by the Reviewing Official, have the possibility based on zoning of:

(i) Being extended to serve more than four lots or units, or

(ii) Accommodating a development that generates more than 40 daily vehicle trips based on current plan designation and zoning;

(b) There is no conflict with an existing public road or with the County's long-range road circulation plan, or with the connectivity standards of Subsection 19.23.030(3);

(c) The development minimizes the number of access points to a public roadway; and

(d) An agreement is provided that binds owners within the development to financially participate in perpetual maintenance of the private shared driveway.

(2) Design Standards.

(a) Minimum Construction Standards. Where private shared driveways are authorized, the improvements shall meet the following standards:

(i) The minimum driveway standard is a minimum travel surface as required by the International Fire Code.

(ii) Where private shared driveways require a crossing of an existing natural stream or drainageway, the crossing shall comply with YCC Titles 13, 46A, 16C and 16D.

(iii) Private shared driveways in special flood hazard areas are subject to review to ensure that the design will be analyzed for flood effects and mitigation. Such private shared driveways may alternatively be constructed with the top of the finished road at existing grade where the Reviewing Official determine the roads are not needed for flood ingress and egress because there are safe and suitable alternative routes that meet International Fire Code requirements.

(2) Contents. The Administrative Official may require the following site plan contents in Table 19.30.070-1 as necessary to review applications for project permits. The contents in Table 19.30.070-1 are intentionally broad and inclusive in order to comply with RCW 36.70B.080 and disclose all submittal requirements. This Title is implemented through use of forms tailored to submittal information related to specific application or case types under consideration.

Table 19.30.070-1. Site Plan Submittal Requirements

(a) General Information.	
(i)	The project boundaries of the site and of each affected lot, tract, or parcel, with all Assessor's tax parcel numbers for the subject property. (solid lines for existing lots, broken lines for proposed lots);
(ii)	Engineer Scale, north arrow, legend and date;
(b) Existing Conditions.	
(i)	All major physiographic features, such as, critical areas and shorelines, on or abutting the site;
(ii)	When ground slopes exceed ten percent, the site plan shall depict existing topographic contours at intervals of not more than five feet, extending one hundred feet beyond the boundaries of the site;
(c) Existing and Proposed Development.	
(i)	The location, shape, size, gross floor area, height and types of all existing and proposed structures, structures to be removed, minimum building setbacks, lot coverage, lot area, and the boundary lines of all proposed and existing lots, tracts, and easements;
(ii)	Proposed location and dimension of community and other open space;
(iii)	The location and dimensions of any existing and proposed utilities, streets, railroads, irrigation and drainage canals, easements and dedication of property within the subject property or adjacent to any affected lots;
(iv)	The location, right-of-way widths, pavement widths, curbs, gutters, culverts and names of all existing or platted streets or roads, whether public or private, and other public ways within the subject property or adjacent to any affected lots;
(v)	Location, dimension and design of off-street parking facilities, showing points of ingress to and egress from the site;
(vi)	Existing and proposed land uses, including primary and accessory;
(vii)	Existing and proposed pedestrian and vehicular circulation patterns, and where specified, sidewalks, trails and bicycle paths;
(viii)	Existing and proposed landscaping, sitescreening and street trees, where required;
(ix)	The proposed contours and grading as they affect lot layout, streets, and drainageways as set forth in YCC 12.10, 46A, 16C and 16D;
(x)	Existing and proposed public and private utility infrastructure including sewer or other waste disposal facilities, water mains, irrigation, fire protection systems and other underground utilities;
(xi)	The existing on-site sewage system components and reserve areas and the proposed location for on-site sewage systems and

- (a) Approve the application;
- (b) Establish conditions for approval or require changes in the proposed site plan, provided that conditioning authority for Permitted Uses subject to Type 1 review is limited to that specified in Section 19.30.090;
- (c) Request additional or more detailed information per YCC Section 16B.07.030. The Reviewing Official may continue an open record public hearing to allow requested additional information to be provided;
- (d) Refer any Type 2 Administrative Use application to the Hearing Examiner for the purpose of holding a public hearing and rendering a decision on the proposal under Type 2 review procedures and criteria;
- (e) Deny the application; and
- (f) As provided in YCC Chapter 16B.09, the Board may also remand a Type 2 Administrative, Type 3 Conditional or Type 4 Quasi-judicial application to the Hearing Examiner before making a decision on the record if the Board finds that the Hearing Examiner's decision or recommendation needs clarification or further findings on specific points, consistency with this Title, or the Comprehensive Plan.

The Reviewing Official's final decision shall be issued in accordance with the requirements of YCC Chapter 16B.07.

(9) Limitations. Applications approved by the Reviewing Official authorize only the use, arrangement and construction set forth in the approved site plans, plats and applications, and no other use, arrangement or construction unless otherwise permitted and not prohibited by condition. Use, arrangement or construction substantially at variance with that authorized is a violation of this Title and punishable as provided by YCC Chapter 16B.11.

(Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.30.090 Type 1 Application Approval Criteria and Conditions.

(1) In granting a project permit application subject to Type 1 review, the Administrative Official shall review the submitted materials and all other necessary information to determine that:

- (a) The proposed development complies with the standards and provisions of the zoning district in which it is located, the development standards and all other applicable sections of this Title, except when an Administrative Adjustment is granted or the proposed development is otherwise modified according to the provisions of this Title.
- (b) Adequate water, sewer, roads, and other infrastructure improvements exist, or will be provided, to serve the project consistent with the purpose of the zoning district.
- (c) When located within an Urban Growth Area, the Reviewing Official may solicit and consider comments from the affected city in making this determination.
- (d) When necessary to meet current development standards or to serve the proposed use, conditions may be required relating to:
 - (i) The number and location of vehicular access points (subject to approval by the reviewing authority with jurisdiction to issue approach or access permits);
 - (ii) The dedication of additional right-of way and or public use easements for access, utilities or other purposes;
 - (iii) Increased building setbacks to provide for future road improvements for classified roads;
 - (iv) Flood hazard mitigation under YCC Chapters ~~16A.05~~, 16C.05 or 16D.05;
 - (v) Storm drainage facilities as required in YCC Title 12.10;

Chapter 19.33

NONCONFORMING LOTS, STRUCTURES AND USES

Sections:

- 19.33.010 Legislative Intent.
- 19.33.020 Applicability.
- 19.33.030 Nonconforming Status.
- 19.33.040 Legal Nonconforming Lots.
- 19.33.050 Legal Nonconforming Buildings or Structures.
- 19.33.060 Legal Nonconforming Uses.

19.33.010 Legislative Intent.

Lots, uses, and structures exist which were lawful when established but whose establishment would be restricted or prohibited under current zoning regulations. This Chapter is intended to protect only those uses, structures and lots that were legally established prior to a change in regulation, and have not been abandoned or discontinued. However, a range of regulatory strategies provided herein allows nonconforming uses to continue so long as they are benign or compatible with neighboring properties. Nonconforming uses with incompatible attributes, as defined, may be injurious to neighboring properties or cause nuisances to the detriment of the community and therefore should not be reestablished when substantially damaged or destroyed.

The intent of this Chapter, under certain circumstances and controls, is to allow modifications to nonconforming lots, uses and structures consistent with the objectives of maintaining the economic viability of such lots, uses and structures, while protecting the rights of surrounding property owners to use and enjoy their properties. This Chapter is intended to provide a compatibility determination for evaluating the proposals for modification, expansion, and/or the restoration of damaged or destroyed nonconforming uses of structures because the effect of approving such applications could result in continuation of the nonconforming use for decades.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.33.020 Applicability.

All nonconforming lots, uses and structures shall be subject to provisions of this Chapter.

- (1) If a lot, use or structure deemed legally nonconforming under past zoning regulations is brought into compliance with current standards, it shall be considered conforming.
- (2) The provisions in this Chapter do not supersede or relieve a property owner from compliance with building, fire, health or other life safety requirements of Yakima County Code.
- (3) Additional review requirements are provided within the jurisdictions of the Shoreline Master Program and the Critical Areas Ordinances for nonconforming uses or structures as defined in YCC Titles 16A, 16C or 16D.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.33.030 Nonconforming Status.

- (1) Any lot, use, or structure which, in whole or part, is not in conformance with current zoning requirements shall be considered as follows:
 - (a) Legal Nonconforming. Lots, uses and structures legally created or lawfully established prior to subdivision or zoning requirements, under prior zoning codes and/or County subdivision regulations are legally nonconforming and may be maintained or altered subject to provisions of this Chapter.
 - (b) Illegal Lots, Structures and Uses. Structures, lots, required site improvements, uses and/or developments not legally established or existing as of the effective date of this Title retain their illegal status and must be abated or comply with this Title under actions directed as a result of enforcement proceedings and/or the necessary permit applications.

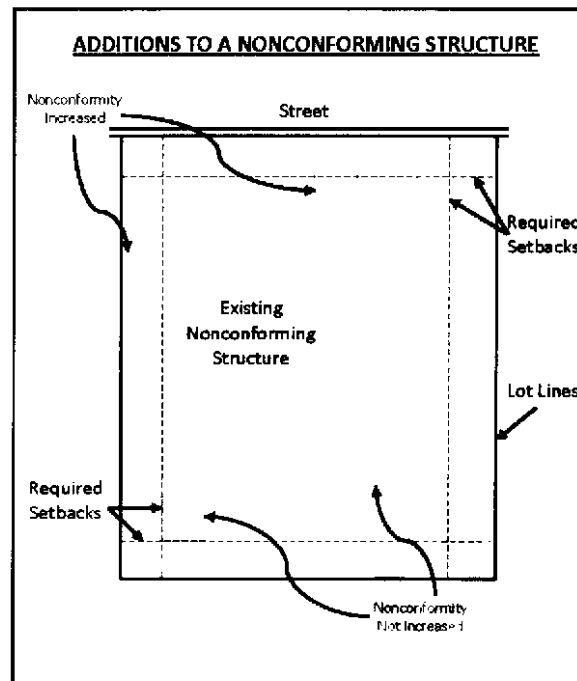


Figure 19.33.050-1. Additions to a nonconforming structure.

(2) Restoration of Damaged Building or Structure.

(a) **Damaged or Destroyed Structure.** A legal nonconforming building or structure damaged or destroyed by fire, flood, explosion, wind, earthquake, war, riot, calamity or other catastrophic event may be restored or repaired under this Subsection.

(b) **Documentation.** The property owner shall provide the information necessary under Subsection 19.33.030(2) to reasonably assure the Reviewing Official that a requested restoration or repair complies with this Section. Acceptable documentation may include:

- (i) A basic site plan containing the information defined in Section 19.01.070 showing the actual dimensions of the nonconforming structure, its height, and its exact placement on the lot prior to being damaged; and
- (ii) A written narrative describing the use or uses that existed immediately prior to damage; and
- (iii) An affidavit or certificate from an insurance company or other entity with knowledge of the situation that the narrative and site plan accurately represents the nonconforming structure and its use or uses as they were immediately prior to damage or destruction.

(c) **Natural Hazards – Additional Requirements.** Nonconforming structures damaged or destroyed by flooding or other natural hazards shall additionally be subject to the requirements of YCC Titles 16A, 16C or 16D.

(d) **Reconstruction Not Involving Expansion or Nonconforming Use.** The Administrative Official may, through a Type 1 review process, approve reconstruction in conformance with the site plan or to be more conforming with the provisions and standards of the zoning district in which it is located. If it is determined that the requested reconstruction amounts to any expansion of the nonconforming structure's original bulk or dimension, the proposal shall be reviewed under Subsection (1) above. If it is determined the requested

Chapter 19.34
DIVISIONS OF LAND

Sections:

- 19.34.010 Legislative Intent.
- 19.34.012 Applicability.
- 19.34.020 Boundary Line Adjustments.
- 19.34.035 Cluster Developments.
- 19.34.040 Short Subdivisions.
- 19.34.050 Subdivisions.
- 19.34.060 Requirements for Site Improvements, Reservations and Design.
- 19.34.070 Final Subdivisions and Short Subdivisions.
- 19.34.080 Binding Site Plans.
- 19.34.081 Campgrounds and Recreational Vehicle Parks.
- 19.34.082 Manufactured or Mobile Home Parks.
- 19.34.090 Utility Services Tracts.

19.34.010 Legislative Intent.

It is the intent of this Chapter to implement those purposes set forth in RCW 58.17.010, by:

- (1) Regulating the division of land within the unincorporated areas of the County;
- (2) Promoting the public health, safety and general welfare;
- (3) Promoting safe and convenient travel by the public on roads, streets and highways;
- (4) Facilitating adequate provision for water, sewerage, drainage, parks and recreation areas, sites for schools and school grounds, and other public requirements;
- (5) Providing for proper ingress and egress;
- (6) Insuring the general tax-paying public is not burdened with those development costs that are more appropriately the responsibility of the original developer;
- (7) Preventing overcrowding of land by providing adequate open spaces;
- (8) Requiring uniform monumentation of land subdivisions and conveyance by accurate legal description;
- (9) Furthering the goals, policies and objectives of:
 - (a) The Growth Management Act;
 - (b) The Shoreline Management Act;
 - (c) The Yakima County Comprehensive Plan, the Yakima Urban Area Comprehensive Plan, subarea plans and all related elements; and
 - (d) Adopted Comprehensive Flood Hazard Management Plans.
- (10) Establishing criteria pursuant to the requirements of Chapter 58.17 RCW;
- (11) Promoting public safety by reviewing divisions for compliance with the National Flood Insurance Program by implementing YCC Titles 13, 16A, 16C, 16D and this Title;

(v) **Maintenance Agreements for Private Recreation Areas.** Covenants shall provide perpetual maintenance of recreation areas dedicated to or operated by parties other than a local government. The covenants shall establish a fund for recreation area maintenance and require the owners in the development to pay annually into such fund. Covenants shall be approved by the County.

(b) **Alternative to Dedication or Payment in Low-Density Neighborhoods.** As an alternative to providing a recreation area under Subsection (7)(a) above within the SR and R-1 districts the applicant may choose to limit the entire development to a minimum lot size of 7,000 square feet or larger and a maximum lot coverage of 45%. A statement shall appear on the face of the plat that acknowledges these limitations and that the maximum lot coverage may not be adjusted to exceed 45%.

(8) **Drainage Facilities.** Where drainage facilities are required, approval of design, construction and drainage easements is required under YCC Chapter 12.10.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.34.070 Final Subdivisions and Short Subdivisions.

(1) **Applicability.** This Section applies to applications for finalizing both divisions of land following a formal preliminary approval. Any use of the term "subdivision or plat" in this Section shall include "short subdivision or short plat." Any reference to the Board of County Commissioners **would not normally** apply to short subdivisions, which are approved administratively, unless appealed.

(2) **Requirements.** The final subdivision shall:

- (a) Conform substantially to the preliminary subdivision;
- (b) Incorporate any conditions or recommendations imposed by the Reviewing Official;
- (c) Include the following information, either on the face of the plat, if practicable, or, if not, on a separate attached statement. Any required signatures shall be in permanent black ink on the original document to be filed;
 - (i) A complete survey of the section or sections necessary to establish the corners of the quarter section or the corners of the quarter sections in which the plat is located or as much as may be necessary to properly orient the plat within such section or sections meeting State of Washington surveying practices as they exist in the Survey Recording Act at the time the field surveying work is completed. A lot closure report for each lot within the proposed subdivision must be submitted with a copy of the final plat;
 - (ii) Subdivision name (if any);
 - (iii) Legend, title, scale, north arrow and date;
 - (iv) Planning Division file number, located near the upper right-hand margin or within it;
 - (v) Tract boundary lines, property lines of residential lots and other sites, with accurate dimensions, bearing or deflection angles, and radii, arcs and central angles of all curves;
 - (vi) Name and right-of-way lines of streets, easements and other rights-of-way;
 - (vii) Location, dimensions and purpose of any easements;
 - (viii) Number to identify each lot or site and block;
 - (ix) Purpose for which sites, other than residential lots, are dedicated or reserved;
 - (x) Location and description of monuments existing or set;
 - (xi) Reference to recorded plats of adjoining platted land by recorded name, and Auditor's file number;

- (xii) A certificate on the face of the plat signed by a registered land surveyor certifying the plat is a true and accurate representation of the lands surveyed;
 - (xiii) A certificate signed and acknowledged by all parties with any record title interest in the land subdivided, consenting to the preparation and recording of the plat; and
 - (xiv) If a lot is approved and will be served by an individual well for potable water supply and the well is not required to be installed prior to the recording of the final plat a statement shall appear on the face of the plat indicating the responsibility of future owners to provide the intended source of potable water, consistent with the type of water system intended in the approval and in compliance with all laws governing its installation and operation.
- (d) Subdivisions within Irrigation Districts. Comply with the following provisions if the subdivision lies wholly or in part in an irrigation district:
- (i) A statement shall appear on the face of the plat evidencing the subdivision lies within the boundaries of an irrigation district and that irrigation water rights-of-way may be imposed by said irrigation district under RCW 58.17.310.
 - (ii) Plats within irrigation districts or portions of irrigation districts shall contain irrigation easements no less than ten feet in width, nor more than 25 feet in width, unless otherwise approved by the irrigation district to indicate:
 - (A) Adequate provision has been made to serve with irrigation water all lots which are entitled to irrigation water under operating rules and regulations of the district, and
 - (B) Adequate provision has been made to transmit irrigation water through the plat to serve adjacent land that is entitled to irrigation water from the official forty-acre delivery point serving said land.
 - (iii) Plats wholly or in part within the boundaries of the Naches-Selah, Sunnyside Valley, Roza, or Yakima-Tieton Irrigation District, shall in addition to Subsection 19.34.070(2)(d)(i) contain the following acknowledgement:

The property described hereon is wholly or in part within the boundaries of the _____ Irrigation District. The irrigation easements and rights-of-way on this plat as required by Yakima County Code Title 19 (either currently existing irrigation easements or rights-of-way or newly created ones) are adequate to serve all lots located within this plat which are otherwise entitled to irrigation water under the operating rules and regulations of the district. The irrigation easements and rights-of-way are adequate to transmit irrigation water under the operating rules and regulations of the district. Lots _____, in whole or in part, are not entitled to irrigation water under the operating rules and regulations of the district.

- (iv) If one or more irrigation district within the subdivision serves as its own treasurer, a certificate of the authorized officer of the irrigation district is required evidencing that all special property assessments of such district on the property being divided are paid through a specific date. Such date shall be no more than thirty days from the date of submission of a subdivision to the Yakima County Planning Division for processing.
- (e) Subdivisions within Floodplains. Comply with the following provisions if wholly or in part within an identified special flood hazard area:
- (i) Delineate any 100-year floodplains and floodways on the face of the plat, or if the entire property is within the 100-year floodplain, contain a statement of that fact;
 - (ii) Identify on each lot partly within a special flood hazard area the minimum building area of 5,000 square feet outside of the 100-year floodplain, except public utility tracts, and public highway tracts; and

(iii) Include the following statement(s) on the face of the plat:

Portions of this divisions of land lie within the one-hundred-year floodplain of (appropriate watercourse name) as defined by the Federal Emergency Management Agency (FEMA) as part of the National Flood Insurance Program (NFIP) as per Flood Insurance Rate Map panel (number, date). Special flood hazard development standards will apply to that area of the lot lying within the 100-year floodplain subject to the NFIP as implemented by YCC Title 13 and YCC Chapters ~~16A.05 and~~ 16C.05, Critical Areas and/or 16D.05, Shoreline Master Program. This information is subject to change. Specific floodplain information may be obtained from the Yakima County Public Services Department.

(f) Subdivisions within Shoreline Jurisdiction. Include the following statement on the face of the plat, if wholly or in part within the jurisdictional boundary of the Yakima County Regional Shoreline Master Program:

The lots, or portions thereof, within this divisions of land are subject to the Yakima County Regional Shoreline Master Program (YCC Title 16D). Special development standards may apply and permits may be required for certain types of development. Shorelines management information may be obtained from the Yakima County Planning Division.

(g) Stormwater. Include a statement on the face of the plat that the owners and their grantees and assignees in interest agree to retain surface water generated by the (____-year, 24-hour) storm event (defined by the Reviewing Official) within the divisions of land. Any drainageways must not be altered or impeded; provided, this provision will not apply to divisions of land that have received written approval of a stormwater site plan to discharge surface water to a publicly owned or authorized storm water system.

(h) Individual Driveway Grades. Include the following statement on the face of the plat for properties with ground slopes exceeding ten percent, as depicted on the final grading plan:

The maximum grades for individual driveways that are 50 feet in length or less shall be 12%. The maximum grades for driveways 51 feet or greater shall be as identified for fire apparatus access roads in YCC Title 13. The grade shall be measured from the edge of road right-of-way or private access easement at the center of the driveway to the garage slab. If there is no garage then it shall be measured to the grade of the building as defined in the residential code of YCC Title 13.

(i) Addressing. Include the following statement on the face of the plat:

Yakima County has in place an urban and rural addressing system per YCC Chapter 13.26. Determination of street names and address numbers for developed residential and commercial lots within this plat are at the discretion of the Yakima County Public Services Department upon issuance of an eligible building permit.

(j) Dedications. Include dedication by owner of streets, rights-of-way, easements and any sites for private or public use.

(k) Acknowledgement of Subdivider. Include an acknowledgment by the person filing the plat before the Auditor of the County. A certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith.

(l) Payment of Taxes. Accompany a certificate of payment from the County Treasurer stating all taxes and delinquent assessments for which the property may be liable as of the date of certification by the Treasurer have been fully paid, satisfied or discharged.

(m) Approvals, Certificates, Affidavits, Covenants, Disclaimers and Endorsements. Include the following information, if practicable, or, if not, on a separate attached statement. Any required signatures shall be in permanent black ink on the original document to be filed.

- (D) Planning Director, Yakima Health District, County Engineer, County Treasurer or Deputy, and County Auditor or Recording Deputy, or authorized designees; and
 - (E) Chairperson of the Board of Yakima County Commissioners, only if the site plan includes land or improvements dedicated to Yakima County;
 - (iv) Written description of the surveyed boundaries of the campground or recreational vehicle park property;
 - (v) Other information as required by the Reviewing Official;
 - (vi) The Treasurer shall sign to certify the taxes for the subject property are paid through the current year; and
 - (vii) The Reviewing Official shall signify final binding site plan approval by signing the final binding site plan Mylar®. An incomplete final binding site plan shall be corrected before final approval and recording.
- (b) One copy of the approved final binding site plan shall be recorded and filed in the Auditor's records. A campground or recreational vehicle park shall not be legal and ~~approved~~ until the approved final binding site plan has been recorded and filed with the County Auditor.
- (c) The operator of a campground or recreational vehicle park shall establish rules and regulations for the management of the establishment and its guests and employees, and each guest or employee staying or employed in the establishment shall conform to and abide by such rules and regulations so long as the guest or employee remains in the park or campground. The submission of campground or recreational vehicle park management rules shall be required when an applicant files for final binding site plan approval.
- (8) Compliance. An owner of a campground or recreational vehicle park and the manager are jointly responsible to operate a campground in compliance with this Chapter, and each is also responsible for guest compliance.
- (9) Annual Operational Permit and Inspection Required. All recreational vehicle parks and campgrounds in unincorporated Yakima County are required, prior to the renewal or issuance of the annual operational permit, to have an inspection by Yakima County to ensure compliance with the approved binding site plan approved under this Chapter and the applicable building, fire safety and health regulations established under Yakima County Code Title 13.
- (Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.34.082 Manufactured or Mobile Home Parks.

- (1) Application. An applicant for a manufactured/mobile home park shall submit the requisite fee, a completed application review form provided for that purpose by the Administrative Official, and the information listed in Section 19.30.060.
- (2) Review and Notice. Review of the application shall be conducted in conjunction with the Type 2 or 3 review of an Administrative or Conditional Use, as indicated in allowed zoning districts, under Chapters 19.11, 19.12, 19.13, and 19.30, Section 19.18.280, and YCC Title 16B. Notice of a proposed mobile or manufactured home park shall be given as specified in YCC Chapter 16B.05. Appeals are permitted as provided in YCC Chapter 16B.09.
- (3) Standards. All standards of Section 19.18.280 shall apply to expansion of existing manufactured/mobile home parks. The standards shall not apply to existing areas of a park not being expanded. The Reviewing Official may, at his or her discretion, reduce one or more standards of Section 19.18.280 for newly expanded areas of a park if expansion plans also include proportional improvements to the existing park area.
- (4) Approval. Subject to findings of the proposal's conformance with the Comprehensive Plan and the requirements of this Title, the Reviewing Official may grant preliminary approval of the project, enabling the applicant to meet State and County requirements for final binding site plan approval.

(a) A final binding site plan drawn by a licensed surveyor or engineer for the project shall be submitted verifying all required improvements have been completed or a surety bond has been posted in a form and amount acceptable to Yakima County for their completion. The final binding site plan shall be legibly drawn, printed or reproduced at a scale appropriate to show the necessary detail, which in no event shall be less than one inch to 100 feet, and containing at least:

- (i) Delineation of all spaces and dimensions, square footage and unit setbacks for each space.
- (ii) Designation of the areas and locations of all easements, streets, roads, location of off-street parking for each unit, other parking areas, improvements, signage, utilities, building envelopes within each space, and required open spaces and permanent irrigation system to maintain open space/recreational areas that would normally require irrigation.
- (iii) The location of all solid waste containers and screening of containers, all facilities, utilities, improvements and amenities such as pathways, sidewalks, and recreational facilities.
- (iv) An accurate legal description of the property.
- (v) The parcel number, north arrow, and scale of the map.
- (vi) Signature line for the reviewing official.
- (vii) All property lines, their lengths and bearings.
- (viii) The notarized signature of the property owner(s).
- (ix) A statement signed by the local health officer that the plan meets the rules, regulations and standards of the Washington State Department of Health.
- (x) Inscriptions or supplemental documents setting forth the limitations and conditions of the use of the land, or of approval, prescribed by the Reviewing Official.
- (xi) The following statement: "The spaces contained in this park shall be for the purpose of lease of manufactured or mobile home sites only. The sale of lots without prior compliance with procedures governing the subdivision of land shall constitute a violation of state and/or local laws."
- (xii) Designation of the details of a sitescreening buffer strip along property perimeters, under Subsections 19.18.280(3)(j) and 19.21.030(2).
- (xiii) If a portion of the existing mobile or manufactured home park is located in a special flood hazard area, the final binding site plan shall delineate the flood hazard areas required by the subdivision standards under YCC Title 13. New or expanded mobile or manufactured home parks are not permitted under YCC Titles ~~16A~~, 16C, and 16D.

(b) The final binding site plan shall be submitted to the Reviewing Official to be reviewed. Once approved, it shall be filed with the County Auditor within 14 days.

(c) Building permits for the manufactured or mobile homes shall not be granted until after the final binding site plan has been filed with the County Auditor.

(d) Development in conformity with the approved final binding site plan is binding. Deviation from any condition upon which approval was granted, or from any condition shown on the approved final binding site plan, shall constitute a violation of this Title punishable and enforceable in the manner provided for in YCC Section 16B.11.050.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 7-2013 § 1 (Exh. A) (part), 2015).

- (1) **Type 1 Review Projects or Actions.** Type 1 review process shall apply to future projects or actions in compliance with an approved Master Development Plan and Development Agreement;
- (2) **Type 2 Review Projects or Actions.** Type 2 review process shall be applied for minor modifications to an approved Master Development Plan or Development Agreement. A change or amendment to the approved master plan shall be deemed a "minor modification" if, in the Reviewing Official's discretion, the following criteria are satisfied:
- (a) The amendment does not increase the areas identified for any particular land use or increase the residential density approved in the master plan;
 - (b) The amendment does not increase the total floor area of nonresidential uses by more than five percent;
 - (c) The amendment does not materially change the type and character of approved uses;
 - (d) The amendment does not materially change parking or traffic circulation within the development;
 - (e) The amendment does not materially change setbacks, buffers, landscaping, shoreline, critical area or other mitigation measures;
 - (f) The amendment does not materially impact the overall design of the approved master plan; and
 - (g) Other similar changes minor nature proposed to be made to the configuration, design, layout or topography of the Master Planned Development deemed not to be material or significant in relation to the entire Master Planned Development and are determined not to have any significant adverse effect on adjacent or nearby lands or the public health, safety or welfare;
- (3) **Type 3 Review Projects or Actions.** A major modification to the Master Development Plan shall be subject to a Type 3 review and shall be referred to the Hearing Examiner under YCC Title 16B and Chapter 19.31. A "major modification" shall be any modification to an approved Master Development Plan or Development Agreement deemed to be more significant than a "minor modification" as described above; and
- (4) **Review Procedures.** Type 2 and 3 review shall be conducted consistent with YCC Title 16B and Chapter 19.30, respectively. For any changes falling outside the scope of such review, the procedures in this Chapter for original Master Development Plan and Development Plan approval shall be followed.
- (Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.35.060 Variances.

- (1) **Variance Applications.** The Hearing Examiner may consider applications for a variance from the terms of this Title under the Type 3 review provisions of Chapter 19.30 and the requirements of YCC Title 16B.
- (a) Under no circumstances shall the Hearing Examiner grant a variance to allow a use not permissible under the terms of the Title in the zoning district involved, or any use expressly or by implication prohibited in the zoning district by this Title.
 - (b) A variance application that would alter density or minimum lot size requirements shall not be accepted or granted.
 - (c) A variance application shall not be accepted if administrative adjustment or modification provisions apply and could provide the relief sought from the standards of this Title.
 - (d) The Hearing Examiner shall not have jurisdiction to grant a variance to standards or requirements under the Federal Emergency Management Agency's National Flood Insurance Program (NFIP) as implemented by YCC Title 13.

(2) Criteria for Variance Approval. The Hearing Examiner shall authorize such variance from this Title, as will not be contrary to the public interest and the comprehensive plan where literal enforcement of this Title would cause undue hardship, as measured by the criteria below. A variance shall not be granted unless the Hearing Examiner makes findings that the applicant has expressly demonstrated all of the following:

- (a) Special circumstances applicable to the property, including size, shape, topography, location or surroundings, exist;
- (b) Due to such special circumstances, strict application of this Title would deprive the property of rights and privileges enjoyed by other properties in the vicinity under identical zoning district classification;
- (c) Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district classification in which the property is situated;
- (d) Special circumstances do not result from the actions of the applicant;
- (e) The variance is the minimum variance that will make possible the reasonable use of the land, building or structure;
- (f) Granting a variance will be in harmony with the general purpose and intent of this Title, the specific zoning district and the Comprehensive Plan;
- (g) Administrative adjustment or administrative modification provisions of this Chapter were not applicable or could not provide the relief sought from the standards of this Title;
- (h) Granting the variance requested will not confer on the applicant any special privilege denied by this Title to other lands in the same area; and
- (i) Financial gain is not the ground or grounds for the variance.

(3) Additional Criteria for Variances in a Floodplain and/or Airport Safety Overlay District. When considering variance applications for property within a 100-Year Floodplain designated under YCC Titles 16A, 16C or 16D or within the Airport Safety Overlay District, the Hearing Examiner shall consider:

- (a) The conditions in Section 19.17.030;
- (b) All technical evaluations and standards that apply;
- (c) The danger to life and property due to flooding or airport land use and safety conflicts;
- (d) The importance of the services provided by the proposed use to the community;
- (e) The necessity to the facility of a waterfront or airport location;
- (f) The availability of alternative locations for the proposed use that is not subject to flooding or airport hazards;
- (g) The compatibility of the proposed use with existing and anticipated development; and
- (h) The relationship of the proposed use to the Airport Master Plan and floodplain requirements under the Federal Emergency Management Agency's National Flood Insurance Program (NFIP) as implemented by YCC Title 13.

(4) Action on a Variance Application.

- (a) The Hearing Examiner shall file a written decision following closing of the public hearing in accordance with YCC Chapter 16B.09 that shall include the following considerations:
 - (i) The testimony at the public hearing;

	2016 Base Fee
Minor revision (YCC 16C.03.25 and 16D.03.25)	\$ 870.00
Exemption from shoreline substantial development permit (YCC 16D.03.06)	\$ 675.00
Additional fee for State Environmental Policy Act (SEPA) review (YCC 16.04.280)	\$ 295.00

Notes:

(1) The fee for Type 1 Boundary Line Adjustment Authorizations shall apply to the clustering of existing lots under YCC 19.34.035, listed in Table 20.01.070-2.

(2) An additional fee(s) of \$390.00 shall apply to each lot after the first two within the application. For example, an application with three lots total would increase the fee by \$390.00, four lots total would increase the fee by \$780.00, and so on. The term "lot" shall, for the purposes of this calculation, include lot, parcel, tract, binding site plan site, division, and nonconforming lot.

(3) Applies to a Type 1 review for which the Planning Division issues a written decision only. This fee does not include adult entertainment facilities, which are subject to a separately listed application fee. Additionally, YCC 19.30.030(1)(c) and 19.17.020(3) detail specific circumstances where permitted or Type 1 uses require Type 2 review. In such a case the application fee will be the same as for an Administrative or Type 2 use, listed in Table 20.01.070-2.

(4) The fee for a Type 1 modification does not apply to an alteration or expansion of any existing structure with a nonconforming height or setback under YCC Title 19.33.050. If the enlargement does not meet the height, lot coverage or setbacks then relief may be request in an Administrative Adjustment or Variance under Chapter 19.35 prior to issuance of Building Permits.

Table 20.01.070-2. Type 2 Permits.

	2016 Base Fee
Final short plat alteration or vacation (YCC 19.34.040(8))	\$ 1,060.00
Short plat preliminary application (YCC 19.34.040(3))	\$ 1,060.00
Short plat preliminary application amendment	\$ 485.00
Short plat final application (YCC 19.34.040(7))	\$ 485.00
Binding site plan preliminary application (YCC 19.34.080(3)(a)(v)) ⁽²⁾	\$ 1,925.00
Binding site plan final application (YCC 19.34.080(3)(a)(vi))	\$ 870.00
Binding site plan vacation or alteration (YCC 19.34.080(4))	\$ 1,060.00
Administrative or Type 2 use, not otherwise specified (YCC 19.30.030(2)) ⁽³⁾	\$ 1,925.00 ⁽⁴⁾
Reduction to resource setbacks, Type 2 (YCC 19.35.020(6)(b))	\$ 870.00
Clustering existing lots - Type 1 review through the Boundary Line Adjustment (YCC 19.34.035)	\$ 1,255.00 ⁽¹⁾
Linear transmission facilities (YCC 19.18.260)	\$ 10,410.00
Zoning non-conforming use or structure alteration, enlargement, expansion or extension. YCC 19.33.060(4)(d)	\$ 1,450.00
Zoning non-conforming dwelling expansion not exceeding 50% of the gross floor area and new detached structures accessory to the dwelling, other than an accessory housing unit. YCC 19.33.060(4)(c)	\$ 485.00
Zoning non-conforming use change to another non-allowed use. YCC 19.33.060(5)(b)	\$ 1,450.00
Administrative adjustments for Type 1 & 2 uses, ⁽³⁾ consolidated with another application requiring Type 2 or higher development authorization (YCC 19.35.020)	\$ 295.00
Administrative adjustments for Type 1 & 2 uses, ⁽³⁾ not consolidated with another application requiring Type 2 or higher development authorization (YCC 19.35.020)	\$ 1,060.00
Minor modification to a master planned development overlay or institutional overlay (YCC 19.35.055(2))	\$ 970.00
Substantial development permit ⁽³⁾ (YCC 16A.03.09 and 16D.03.19)	\$ 3,080.00
Adjustment (YCC 16A.03.13 and 16C.03.23) ⁽³⁾	\$ 870.00