

1 **BOARD OF YAKIMA COUNTY COMMISSIONERS**

2
3 **ORDINANCE NO. 14-2007**

4
5 **IN THE MATTER OF ADOPTING ORDINANCE NO. 14-2007 PERTAINING TO**
6 **SHORELINE MANAGEMENT PLANNING AND IMPLEMENTATION, ADOPTING**
7 **AMENDMENTS TO PLAN 2015 AND THE YAKIMA COUNTY SHORELINE MASTER**
8 **PROGRAM;**

9
10 WHEREAS, the Shoreline Management Act (SMA) finds that shorelines of the state are among
11 the most valuable and fragile of our natural resources and that there is great concern throughout
12 the state and Yakima County relating to their utilization, protection, restoration, and
13 preservation; and

14
15 WHEREAS, the SMA finds that much of the shorelines of the state and the uplands adjacent
16 thereto are in private ownership; that unrestricted construction on the privately owned or publicly
17 owned shorelines of the state is not in the best public interest; and therefore, coordinated
18 planning is necessary in order to protect the public interest associated with the shorelines of the
19 state while, at the same time, recognizing and protecting private property rights consistent with
20 the public interest; and

21
22 WHEREAS, the SMA declares that the interest of all of the people shall be paramount in the
23 management of shorelines of statewide significance; and

24
25 WHEREAS, the SMA contemplates protecting against adverse effects to the public health, the
26 land and its vegetation and wildlife, and the waters of the state and their aquatic life, while
27 protecting generally public rights of navigation and corollary rights incidental thereto; and

28
29 WHEREAS, the SMA requires Yakima County to give preference to uses in the following order
30 of preference for shorelines of statewide significance, which:

- 31 (1) Recognize and protect the statewide interest over local interest;
32 (2) Preserve the natural character of the shoreline;
33 (3) Result in long term over short term benefit;
34 (4) Protect the resources and ecology of the shoreline;
35 (5) Increase public access to publicly owned areas of the shorelines;
36 (6) Increase recreational opportunities for the public in the shoreline;
37 (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or
38 necessary; and

39
40 WHEREAS, the SMA requires in the implementation of this policy the public's opportunity to
41 enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to
42 the greatest extent feasible consistent with the overall best interest of the state and the people
43 generally; and

45 WHEREAS, the SMA requires that permitted uses in the shorelines of the state be designed and
46 conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and
47 environment of the shoreline area and any interference with the public's use of the water; and
48

49 WHEREAS, pursuant to RCW 90.58, the Board of Yakima County Commissioners (Board)
50 adopted the Shoreline Master Program (SMP), on September 5, 1974, with subsequent
51 amendments on March 26, 1981 and November 1, 1981; and
52

53 WHEREAS, the SMA (RCW 90.58.100) requires an integrated use of the natural and social
54 sciences, and the environmental design arts, and utilization of all available information regarding
55 hydrology, geography, topography, ecology, economics, and other pertinent data; and
56

57 WHEREAS, to comply with RCW 90.58.100 and WAC 173-26-201, Yakima County Public
58 Services staff concluded a review of the natural and social sciences, and the environmental
59 design arts, and utilization of all available information regarding hydrology, geography,
60 topography, ecology, economics, and other pertinent data and released a draft document in
61 March of 2004; and
62

63 WHEREAS, to comply with RCW 90.58.100 and WAC 173-26-201, a Shoreline Inventory and
64 Characterization was conducted by the Geo-Ecology Research Group at Central Washington
65 University; and
66

67 WHEREAS, to comply with RCW 90.58.100 and WAC 173-26-201, staff and the Planning
68 Commission (PC) included the review of the natural and social sciences, and the environmental
69 design arts, and utilization of all available information regarding hydrology, geography,
70 topography, ecology, economics, and other pertinent data and the Shoreline Inventory and
71 Characterization in drafting revisions to the SMP; and
72

73 WHEREAS, Yakima County, starting in March of 2004, began an extensive public participation
74 process to solicit suggestions from the public for changes to Yakima County's Comprehensive
75 Plan 2015 (**Plan 2015**) and the SMP, which included thirty-six meetings with interest groups,
76 five public meetings, six city and town elected official meetings (Countywide Planning Policy
77 Committee), eight city and town staff meetings, and thirty-six PC Study Sessions; and
78

79 WHEREAS, the PC held a public hearing on January 20, 2005 at which it considered draft
80 revisions to the Goals and Policies of the Natural Settings Element of **Plan 2015**; and
81

82 WHEREAS, on January 20, 2005 the PC adopted a motion requesting the Board to remand the
83 draft revisions of **Plan 2015** Goals and Policies for further study and to allow simultaneous
84 consideration of both a revised SMP and the related **Plan 2015** Goals and Policies; and
85

86 WHEREAS, in order to garner public participation and input on the draft SMP, the PC held eight
87 Roundtable sessions with potentially affected interests, including agricultural, development, and
88 environmental interests, in addition to tribal, state and local governments; and
89

90 WHEREAS, the final Roundtable sessions were held on a complete draft of the SMP on June 19
91 and 20, 2006; and
92

93 WHEREAS, the PC conducted a duly advertised and noticed open record public hearing on the
94 proposed amendments to the SMP and **Plan 2015** on December 7, 2006; and
95
96 WHEREAS, the PC deliberated on the matter on December 12, 2006, January 3, 4, 10, 11 and
97 31, 2007 and on February 28, 2007; and
98
99 WHEREAS, the PC, having carefully considered the written and oral testimony of the public,
100 agencies, recommendations from staff, changes proposed by commission members in its
101 deliberations, did revise the proposed SMP; and
102
103 WHEREAS, on February 28, 2007, the Planning Commission, by motion and vote, unanimously
104 approved its recommendation that the Board adopt and implement the revised SMP and **Plan**
105 **2015** Goals and policies; and
106
107 WHEREAS, the PC presented its Findings and Recommendation to the Board at a properly
108 advertised study session on March 21, 2007; and
109
110 WHEREAS, the Yakima County SEPA Official issued a Determination of Nonsignificance
111 (DNS) for the proposed edits to the SMP and the proposed amendments to **Plan 2015** on
112 November 22, 2006, which included a comment period ending December 8, 2006 and a retention
113 notice on March 7, 2007; and
114
115 WHEREAS, the Board conducted a duly advertised and noticed open record public hearing on
116 the proposed amendments to the SMP and **Plan 2015** on July 31, 2007 to receive written and oral
117 testimony on the Planning Commission's Findings and Recommendation; and
118
119 WHEREAS, all persons desiring to speak or submit evidence for the record were given the
120 opportunity to do so; and
121
122 WHEREAS, the Board held the public record open until Wednesday, August 1, 2007; and
123
124 WHEREAS, the board directed staff to create a "BOCC Deliberations Draft", which all page and
125 line references during deliberations refer to; and
126
127 WHEREAS, the Board began its legislative deliberations and held such deliberations on August
128 7, 9, 13 and 16, 2007 and October 16, 2007; and
129
130 WHEREAS, RCW 36.70.630 requires the adoption of findings of fact and statement setting forth
131 the factors considered which justify the Board of Yakima County Commissioners action to
132 amend the Planning Commissions recommendation; and
133
134 WHEREAS, the Board, having carefully considered the Planning Commission's Findings and
135 Recommendation, written and oral testimony of the public and agencies, recommendations from
136 staff, and changes proposed by the Board members during deliberations of the record, did debate
137 issues of concern and made decisions by consensus or by vote to revise the Planning
138 Commission's Findings and Recommendation ; and
139

140 NOW THEREFORE, the Board hereby adopts the PC Findings and Recommendation (BOCC
141 Hearing Exhibit “E”, “PC Hearing Draft SMP Only”) with the following changes:

- 142 1) Page 3, Section 16A.01.04(1)(b) (Intent of Title), strike line 117. The Board removes
143 intent statement b) and the recommended PC edits as an inappropriate intent statement.
- 144 2) Page 4, Section 16A.01.04(1) (Intent of Title), insert a new subsection (l) at line 136 with
145 the following language:
146 “Recognize that mining is a unique use as a result of it’s inherent linkage to geology.
147 Therefore, mining and related activities may be an appropriate use when conducted
148 consistent with the policies and provisions of WAC 173-26-241(h), within all
149 Shoreline Designations, except the Natural and Floodway/CMZ Environments.”.
150 Based on public testimony, the Board finds this as an appropriate intent statement.
- 151 3) Page 17, Section 16A.02.195 (Feasible), strike lines 688-691. The Board finds the
152 recommended text as inappropriate and burdensome.
- 153 4) Page 17, Section 16A.02.200 (Fill), line 695, strike the term “rubble”. The Board
154 removes this undefined term to avoid confusion.
- 155 5) Page 22, Section 16A.02.321 (Qualified Professional), lines 911-915, delete existing and
156 proposed text and edit the paragraph to read as follows:
157 “A qualified professional” shall meet the following criteria:
- 158 6) Page 22, Section 16A.02.321 (Qualified Professional), lines 945-947, edit to read as
159 follows:
160 “(h) Or other person/persons with experience, training, expertise, and related work
161 experience appropriate for the relevant critical area subjects determined acceptable to
162 the Administrative Official.”.
- 163 For items 5) and 6), the Board has finds that the edits give the Administrative Official more
164 flexibility in applying the Qualified Professional criteria.
- 165 7) Page 23, Section 16A.02.325 (Restore), line 958, strike “or upgrade”. The Board has
166 removed this term since it is redundant with the preceding word “re-establish”.
- 167 8) Page 23, Section 16A.02.340 (Riprap), line 975, strike “rubble or”. The Board removes
168 this undefined term to avoid confusion.
- 169 9) Page 30, Section 16A.03.02(3)(a) (Critical Areas Identification Form and Critical Areas
170 Report Requirements), lines 1270-1271, strike the phrase “, and/or the proposed activity
171 is unlikely to degrade the functions or values of a critical area”. The Board finds this
172 statement speculative.
- 173 10) Page 30, Section 16A.03.02(3)(c) (Critical Areas Identification Form and Critical Areas
174 Report Requirements), lines 1280-1281, strike the phrase “or is likely to degrade the
175 functions and values of the critical area”. The Board finds this statement speculative.
- 176 11) Page 33, Section 16A.03.06(6) (Exemptions – Procedural Requirements), line 1422,
177 strike the word “potential”. The Board finds that a requirement to protect against
178 “potential” impacts is speculative.
- 179 12) Page 34, Section 16A.03.06(7) (Exemptions – Procedural Requirements), lines 1431-
180 1437, insert a period “.” after the word “standards”. Strike the remainder of subsection
181 (7). The Board finds the recommended examples unnecessary.
- 182 13) Page 38, Section 16A.03.07 (17)(ii) (Exemptions for Hydrologically Related Critical
183 Areas, and Wetlands), lines 1647-1650, edit subsection (ii) to read as follows:
184 “A diseased or damaged tree may be removed as determined by the Administrative
185 Official”. The Board finds that the Administrative Official should have greater discretion
186 on this issue.

- 187 14) Page 39, Section 16A.03.07 (17)(iii) Exemptions for Hydrologically Related Critical
188 Areas, and Wetlands), lines 1651-1654, strike the phrase “or a certified arborist, or other
189 appropriate expert approved by the Administrative Official, documents that the diseased
190 tree may spread disease to other plants” and insert “or as determined otherwise by the
191 Administrative Official”. The Board finds that the Administrative Official should have
192 greater discretion on this issue.
- 193 15) Page 39 Section 16A.03.07 (17)(iv) Exemptions for Hydrologically Related Critical
194 Areas, and Wetlands), lines 1658-1659, strike the phrase “with one (1) new tree with a
195 minimum caliper of 1.5 inches, or other replanting plan” and insert “in a manner”. For
196 items 13), 14) and 15), the Board finds that the edits significantly simplify the exemption
197 criteria and allow the Administrative Official more flexibility in decision making.
- 198 16) Page 47, Section 16A.03.17(2) (Critical Areas Report Requirements), line 2008, strike
199 the phrase “consistent with” and insert “utilizing”. The Board finds that the term more
200 accurately describes the process.
- 201 17) Page 48, Section 16A.03.17(7) (Critical Areas Report Requirements), line 2039, strike
202 “inaccurate,”. The Board finds the term “inaccurate” to be inappropriate.
- 203 18) Page 52, Section 16A.03.18(3)(c)(i) (Critical Areas Report Requirements), line 2225,
204 strike the phrase “the accuracy of the report and”. The Board finds this phrase to be
205 inappropriate.
- 206 19) Page 68 Section 16A.03.27(3)(c) (Subdivision Standards), line 2927-2930, strike
207 subsection (3)(c) in its entirety. The Board finds this standard to be inappropriate and
208 burdensome.
- 209 20) Page 92, Section 16A.06.04(2)(b) (Upland Wildlife Habitat and Habitats of Local
210 Importance), line 3863, strike “shall” and insert “should”. The Board finds the edit to
211 add more flexibility to the process.
- 212 21) Page 92, Section 16A.06.04(2)(b)(iv) (Upland Wildlife Habitat and Habitats of Local
213 Importance), lines 3868-3876, strike subsection (2)(b)(iv) in its entirety. The Board finds
214 the WDFW PHS criteria unnecessary.
- 215 22) Page 95, Section 16A.06.06(5) (Stream, Lake and Pond Typing System), lines 4020-
216 4022, strike the phrase “as streams, but may be protected under geologically hazardous
217 areas, floodplain, stormwater, construction, grading or other development regulations.”.
218 The Board accepts the PC recommendation, based on a review of the science and
219 consistency with the CAO that Type 5 streams do not constitute fish and wildlife habitat
220 conservation areas, but may be regulated as other critical areas or other regulations. The
221 Board finds that the deleted text reference is unnecessary, since those regulations are in
222 effect by this title or other Yakima County codes.
- 223 23) Page 99, Section 16A.06.10(6) (Prohibited Uses), line 4197, strike the word “sewer” and
224 insert “wastewater”. The Board finds “wastewater” to be a more appropriate term.
- 225 24) Page 103, Section 16A.06.11(24)(e) (General Policies and Standards), line 4378, insert
226 “water and wastewater treatment facilities” after the term “plants”. The Board finds that
227 water and wastewater treatment facilities should also qualify for an exemption from the
228 height requirements,
- 229 25) Page 103, Section 16A.06.12 (Use Classifications), line 4382, at the end of the sentence,
230 insert the phrase “except for those listed in Section 16A.03.05 (Minor Activities Allowed
231 without a Permit or Exemption)”. During deliberations, the Board discussed the possible
232 need to define the term “use area” used in sections 16A.06.13 through 16A.06.15. The
233 deliberation was in relation to what uses were, or were not, allowed within a buffer.
234 Since the term “use” is already defined (16A.02.400) and Section 16A.03.05 lists uses or

235 activities that are allowed within a buffer, the board finds that a reference to Section
236 16A.03.05 is a better solution, which is less problematic than creating a new definition.
237 26) Page 104, Section 16A.06.12(1)(b) (Use Classifications), line 4425, strike the word
238 "sewage" and insert "wastewater". The Board finds "wastewater" to be a more
239 appropriate term.

240 27) Pages 105-106, Section 16A.06.14 (Water-related Uses), lines 4474-4493, replace the
241 text with language from the original CAO and edit as follows:
242 "The following provisions shall apply to water-related uses:
243 (1) Structures and use areas shall be located as far landward from the ordinary high
244 water mark or wetland edge as is possible and still preserve the essential or necessary
245 relationship with the surface water.
246 (2) Structures and use areas shall not be located within the vegetative buffer specified
247 in Section 16A.06.16 (Vegetative Buffers) except where existing development or the
248 requirements associated with the use make such a location unavoidable."

249 The Board finds that during the editing process, the provisions in Section 16A.06.14
250 (Water-related Uses) were accidentally changed to the provisions in 16A.06.15 (Water-
251 enjoyment and Non-water Oriented Uses). The Board therefore finds that the original
252 text with edits be restored.

253 28) Page 109, 16A.06.16, Table 6-2 (Vegetative Buffers), reject the PC recommended
254 wetland buffer widths and retain the existing wetland buffer widths from existing table 4-
255 2, except for editing the Type IV wetland buffers to 50'/(25') (Std./Min.). The Board has
256 considered the science and finds that there has been no evidence or testimony that any
257 significant environmental degradation has occurred with the existing wetland buffers,
258 therefore the existing standards, with edits, are within the range of science and sufficient
259 to protect wetlands. The Board finds that vegetation management within the SMP is not
260 solely reliant on the buffer standards in Section 16A.06.16. The SMP includes many
261 other measures that protect Shoreline ecological functions. The sum of protection
262 measures effectively provides layers of protection on different aspects of shoreline
263 ecology.

264
265 The buffer standards are based on a scientific review and are the minimum needed to
266 protect the functional properties listed in Section 16A.06.05, with the exception of some
267 of the wildlife functions that often require extremely large buffers as noted in the science,
268 some of which extend well beyond the jurisdiction of the SMP. In addition to the buffer
269 standards, there are a number of other standards that accomplish vegetation and wildlife
270 management, which include sections:

- 271 • 16D.06.11(2) (protection of existing riparian and sensitive vegetation)
- 272 • 16D.06.11(3) (protection of sensitive wildlife habitat)
- 273 • 16D.06.11(4) (scheduling to avoid sensitive wildlife periods)
- 274 • 16D.06.11(20) (must repair buffers damaged during construction)
- 275 • 16D.06.15(3) (must design projects to protect buffers)

276
277 The Board finds that all developments are required to ensure no net loss of ecological
278 function and adhere to mitigation sequencing; specific locations for these requirements
279 can be found in sections: 16D.01.04(1) (c) and (j); 16D.06.01 (a) (1) and (2);
280 16D.06.01(b)(3); 16D.06.11(15); 16D.06.11(24) (a) and (b), 16D.10.01(11); (16D.03.10
281 & 16D.06.11(15); 16D.03.17 (13); 16D.03.17 (14). The board finds that the SMP

282 includes provisions for restoration as mitigation, so when a new development or use is
283 proposed, there is the opportunity to improve existing degraded conditions, resulting in
284 some restoration for those sites. Combined with the 'No Net Loss' provision, this often
285 results in a 'Net Increase' of ecologic function.

286
287 The Board finds that the Floodway/Channel Migration Zone (CMZ) environment
288 (Section 16D.10.04(6)) increases protection for the most sensitive and hazardous areas of
289 the Shoreline environment. The Floodway/CMZ environment is based on scientific
290 literature that acknowledges a river's need to move within parts of its floodplain. Some
291 of the science for the Yakima River Basin refers to "beads on a string", which would
292 correspond to the large alluvial floodplains located above constrictions along the Yakima
293 and Naches River valleys. The CMZ was mapped for those areas that had adequate data
294 to base the delineation on, which also covers the shorelines with the most development
295 pressure. Furthermore, Yakima County has zoned non-resource lands within the
296 Floodway as Extremely Limited Development Potential, with a 40 acre minimum lot size.

297
298 The Floodway/CMZ environment expands dramatically in the "beads on a string" areas
299 noted above. The result is that the protection for vegetation is effectively increased, as
300 well, for the Shoreline rivers with that environment. One of the main indicators used to
301 delineate the outer edge of the Floodway/CMZ environment is the channel scar wetlands
302 associated with the shoreline. Consequently, the wetlands and their buffers that are found
303 along a shoreline river are generally within the Floodway/CMZ environment. In these
304 locations a buffer is moot, since development is severely limited in the Floodway/CMZ
305 environment as noted in the Shoreline Land Use Table in Section 16A.10.05.

- 306
307 29) Page 109, 16A.0616 Table 6-1 (Vegetative Buffers). The Board accepts the PC
308 recommendation for stream buffers. The Board finds that the widths in Table 6-1 are
309 sufficient to protect Shoreline ecological functions. The Board acknowledges vegetation
310 management within the SMP is not solely reliant on the buffer standards in Section
311 16A.06.16. As discussed in item 28 above, the SMP includes many protection measures
312 for Shoreline ecologic functions. These protection measures effectively provide a
313 number of layers of protection on different aspects of shoreline ecology. General
314 vegetation and wildlife management standards that apply to all developments are located
315 in Section 16A.06.11. In addition, the Board acknowledges that all developments are
316 required to ensure no net loss of ecological function and adhere to mitigation sequencing.
317 The Board also acknowledges that the SMP also includes provisions for restoration as
318 mitigation; combined with the 'No Net Loss' standards, the SMP may result in a 'Net
319 Increase' of Shoreline ecological functions.
- 320 30) Page 109, 16A.06.16, Table 6-1, second column, first cell (for buffer width), insert "See
321 Section 16A.06.16 subsections 1-4.". The Board finds that the edits provide clarity in the
322 application of buffers and the allowance for a variance to the standards.
- 323 31) Page 109, 16A.06.16, Table 6-1, second column, sixth cell, strike "as streams, but may be
324 protected under geologically hazardous area, floodplain, Stormwater, construction,
325 grading or other development regulations". Consistent with item 22 above, the Board
326 accepts the PC recommendation, based on science and consistent with the CAO, that
327 Type 5 streams do not constitute fish and wildlife habitat conservation areas. The Board
328 also finds that the deleted text reference is unnecessary, since those regulations are in
329 effect by this title and other Yakima County codes.

- 330 32) Page 110, Section 16A.06.18 (Utility Lines and Facilities), line 4620, insert “and
331 facilities” after “lines”. The Board finds this edit to be consistent with the title of the
332 section.
- 333 33) Page 111, Section 16A.06.18 (Utility Lines and Facilities), line 4620, strike “sewer” and
334 insert “wastewater”. The Board finds that “wastewater” is a more appropriate term.
- 335 34) Page 110, Section 16A.06.18(8) (Utility Lines and Facilities), line 4647, strike “sanitary
336 sewage” and insert “wastewater”. The Board finds that “wastewater” is a more
337 appropriate term.
- 338 35) Page 116, Section 16A.06.21(9)(Filling), line 4856, within the brackets, insert “also
339 known as” before “compensatory”, strike “fill” and insert “storage”. The Board finds this
340 to be a more acceptable term consistent with the science
- 341 36) Page 115, Section 16A.06.22 (2) (Commercial Mining of Gravels), line 4887, strike “or
342 greater”. The Board finds this edit consistent with the requirement to provide for no net
343 loss of Shoreline ecological function, and not to require restoration.
- 344 37) Page 119, Section 16A.06.25(3)(c) (Commercial and Community Services), line 4998,
345 Strike “200” and insert “100”. The Board finds that 100 feet is a more appropriate
346 standard to determine the suitability of a commercial or community service to be located
347 within Shoreline jurisdiction.
- 348 38) Page 120, Section 16A.06.26(4)(c) (Industrial Activities), line 5038, Strike “200” and
349 insert “100”. The Board finds that 100 feet is a more appropriate standard to determine
350 the suitability of an Industrial activity to be located within Shoreline jurisdiction.
- 351 39) Page 122, Section 16A.07.02(1)(A and B), lines 5162-5170:
352 o Line 5162, strike “a location of”;
353 o Line 5164, insert a period “.” after “artificial wetland”, strike the remainder of the
354 paragraph;
355 o lines 5169-5170, strike subsection (1)(B) in its entirety.
- 356 The Board finds that the existing guidance language, as edited here, is more appropriate than
357 the proposed guidance language.
- 358 40) Page 143, Section 16A.10.05 (Shoreline Land Use table), Commercial and Community
359 Services column, Non-Water Oriented Uses cell, strike “200” and insert “100”. The
360 Board finds that 100 feet is a more appropriate standard to determine the suitability of a
361 commercial or community service to be located within Shoreline jurisdiction.
- 362 41) Page 144, Section 16A.10.05 (Shoreline Land Use table), Industrial column, Non-Water
363 Oriented Uses cell, strike “200” and insert “100”. The Board finds that 100 feet is a more
364 appropriate standard to determine the suitability of an Industrial activity to be located
365 within Shoreline jurisdiction.
- 366

367 WHEREAS, the Board directed staff to prepare ordinance text changes as necessary to
368 implement their revisions; and

369
370 WHEREAS, the Board finds the recommendations by the PC for changes to the **Plan 2015** goals
371 and policies related to shorelines of the state to be acceptable without changes; and

372
373 WHEREAS, the Board conducted a final duly advertised and noticed public open record hearing
374 on their changes to the PC recommendation for all **Plan 2015** and ordinance changes on
375 December 13, 2007 and considered the cumulative effects of all such changes concurrently in its
376 final decision December 18, 2007; and

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

381

382 WHEREAS, the Board of Yakima County Commissioners further concludes that adoption and
383 implementation of the SMP is in the public interest and essential to direct the future growth and
384 development of Yakima County, consistent with the County's Comprehensive *Plan 2015*; Now,
385 therefore,

386

387 **BE IT HEREBY ORDAINED:**

388

389 **Section 1. Adoption.** The document attached hereto as Exhibit A and entitled Shoreline Master
390 Program of Yakima County, Washington, is hereby adopted as an official control required by
391 RCW 90.58. The document shall be codified as a new Title 16D, Yakima County Code. The
392 new YCC Title 16D consists of review criteria and standards for land use/development activities
393 within Shoreline jurisdiction. YCC Title 16D shall apply to all unincorporated lands under
394 Yakima County's land use jurisdiction and within jurisdiction of the SMA.

395

396 **Section 2. Adoption.** The document attached hereto as Exhibit B and entitled Changes to
397 Existing Shoreline Comprehensive *Plan 2015* Goals and Policies, is hereby adopted as an
398 official edit to *Plan 2015* as required by RCW 90.58. *Plan 2015* Critical Areas policies are
399 considered in support of required Shoreline issues, such as flood hazard reduction and vegetation
400 conservation.

401

402 **Section 3. Repeal.** The Shoreline Master Program initially adopted September 5, 1974, and all
403 subsequent amendments thereto are hereby repealed on the effective date and time of this
404 ordinance as provided below in Section 5.

405

406 **Severability 4.** If any section, sentence, clause, or phrase of the adopted new YCC Title 16D
407 should be held to be invalid or unconstitutional by any body or court with authority and
408 jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality
409 of any other section, clause or phrase of the adopted YCC Title 16D.

410

411 **Section 5. Effective Date.** YCC Title 16D shall be effective at 12:01 a.m. on the date after it
412 is approved by the Washington Department of Ecology per RCW 90.58.090. Due to the
413 requirements of Engrossed Substitute House Bill (ESHB) 1933, the provisions of the Critical
414 Areas Ordinance (YCC Title 16C) shall apply to any new development, construction or use
415 within the unincorporated portion of Yakima County designated as a critical area inside
416 Shoreline jurisdiction from the effective date of YCC 16C until the effective date of this
417 ordinance. After the Shoreline Master Program (SMP) is approved, critical areas within
418 Shoreline jurisdiction shall be governed by the SMP.

419

420

421

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423

424

425 Dated this _____ day of _____, 2007

426

427 Attest:

428

429

430

431 Christina S. Steiner
432 Clerk of the Board

433

434

435

436

437 Approved as to form only:
438 Ronald S. Zirkle
439 Yakima County Prosecuting Attorney

440

441

442 By: Terry D. Austin
443 Terry D. Austin
444 Deputy Prosecuting Attorney

445

446

447

448



Michael D. Leita
Michael D. Leita, Chairman

Ronald F. Gamache
Ronald F. Gamache, Commissioner

J. Rand Elliott
J. Rand Elliott, Commissioner
*Constituting the Board of County
Commissioners for Yakima County,
Washington*

450 **Exhibit B –Amendments to Plan 2015 Goals and Polices for Shorelines**
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452
453

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25
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28
29 **Appendix C**
30 **Streams Coming Under Purview of the Shoreline Management Act and their**
31 **Environmental Designations**

33 **Chapter 16D.01**
34 **GENERAL PROVISIONS**

35 Sections:

36	16D.01.01	Title and Authority
37	16D.01.02	Language Interpretation
38	16D.01.03	Purpose of Title
39	16D.01.04	Intent of Title
40	16D.01.05	Applicability
41	16D.01.06	Science and Protection of Anadromous Fish
42	16D.01.07	Applicability of Permit System to Federal Agencies
43	16D.01.08	Administrative Authority
44	16D.01.09	Severability

45
46 **16D.01.01 Title and Authority**

- 47 1) Yakima County Code (YCC) Title 16D is established pursuant to RCW 36.70A.060
48 (Growth Management Act Natural resource lands and critical areas -- Development
49 regulations), RCW Chapter 90.58 (Shoreline Management Act), RCW Chapter
50 43.21C (State Environmental Policy Act), and federal requirements for eligibility in
51 the National Flood Insurance Program, pursuant to the Code of Federal Regulations
52 (CFR). This title shall be known as the "Shoreline Master Program of Yakima
53 County, Washington."
54 2) The Shoreline Master Program of Yakima County shall, for the purposes of RCW
55 36.70A.480 (GMA, Shorelines of the State) be considered a supplement to the
56 Comprehensive Plan of Yakima County. The Shoreline Master Program Regulations
57 shall, for the purposes of 36.70A.480 (GMA and Shorelines of the State) be
58 considered a set of use regulations applying only to shoreline areas as specified in
59 RCW 90.58 (SMA) and WAC 173-26 (SMP Guidelines). These regulations are
60 intended to be substantive legal rules and procedures used to implement the goals and
61 policies of the Master Program. These regulations shall be applied and interpreted in
62 a manner consistent with the remainder of the Master Program or the Act.

63
64 **16D.01.02 Language Interpretation**

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

71
72 **16D.01.03 Purpose of Title**

73 The purpose of YCC Title 16D is to establish a single, uniform system of procedures and
74 standards to be applied to development within Shoreline jurisdiction of unincorporated Yakima
75 County.

76
77 **16D.01.04 Intent of Title**

- 78 1) YCC Title 16D establishes policies, standards, and other provisions pertaining to
79 development within designated critical areas regulated under the provisions of the Growth
80 Management Act (RCW 36.70A) as it applies to Shoreline jurisdiction, development within
81 critical areas or other areas under Shoreline jurisdiction as provided in the Shoreline
82 Management Act (RCW 90.58), and development regulated under the National Flood
83 Insurance Program. Additional purpose and intent for the protection of critical areas is
84 provided in the chapter on each subject. Stream corridors, flood hazard areas, wetlands,
85 critical aquifer recharge areas, geologically hazardous areas and fish and wildlife habitat
86 areas constitute Yakima County's critical areas. These areas are of special concern to the
87 people of Yakima County and the state of Washington because they are environmentally
88 sensitive lands, or hazardous areas, which comprise an important part of the county's natural
89 resource base. The policies, standards and procedures of this title are intended to:
- 90 a) Preserve development options within designated critical areas where such development
91 will not adversely impact critical area values and functions;
 - 92 b) Prevent further degradation of critical areas;
 - 93 c) Conserve, protect and, where feasible, restore essential or important natural resources;
 - 94 d) Protect the public health, safety and general welfare;
 - 95 e) Further the goals and objectives of the Yakima County Comprehensive Plan and all of its
96 elements;
 - 97 f) Implement the goals and requirements of the Washington Growth Management Act
98 (RCW Chapter 36.70A) as it applies to Shoreline jurisdiction, the Shoreline Management
99 Act (RCW Chapter 90.58), and the National Flood Insurance Program;
 - 100 g) Recognize and protect private property rights;
 - 101 h) Provide development options for landowners of all existing lots to the greatest extent
102 possible, through the establishment of Variance, Reasonable Use provisions and Non-
103 Conforming Use and Facility provisions;
 - 104 i) Provide for no net loss of ecological function within Shoreline jurisdiction, particularly
105 the functional properties of stream corridors and other hydrologically related critical
106 areas;
 - 107 j) Establish a consistent foundation of regulations that apply to similar issues whether they
108 are inside or outside Shoreline jurisdiction. Additional protection measures required as a
109 result of Shoreline Master Program updates to this title are identified as applying within
110 Shoreline jurisdiction and are not intended to be applied outside Shoreline jurisdiction;
 - 111 k) Recognize that mining is a unique use as a result of its inherent linkage to geology.
112 Therefore, mining and related activities may be an appropriate use when conducted
113 consistent with the policies and provisions of WAC 173-26-241(h), within all Shoreline
114 Designations, except the Natural and Floodway/CMZ Environments.
- 115 2) In addition, the policies, standards and procedures of this title:
- 116 a) Are not intended to regulate the operation and maintenance of existing, legally
117 established uses and structures, including but not limited to vegetative buffers on existing
118 uses that have been reduced in width prior to the effective dates of provisions in the
119 Critical Areas Ordinance (YCC Title 16C) or Shoreline Master Program (YCC Title
120 16D);
 - 121 b) Are not intended to result in an unconstitutional taking of private property;
 - 122 c) Are not intended to retroactively require the restoration of degraded critical areas for
123 properties in a degraded condition prior to the effective dates of provisions in the Critical

- 124 Areas Ordinance (YCC Title 16C) or Shoreline Master Program (YCC Title 16D); but
125 rather to utilize restoration as a tool to mitigate impacts of new development;
126 d) Are not intended to presume that regulatory tools are the only mechanism for protection,
127 but rather integrated with non-regulatory tools in as balanced a manner as possible;
128 e) Are not intended to prohibit the use of valid water rights.
129

130 **16D.01.05 Applicability**

- 131 1) The provisions of this title shall apply to any new development, construction or use within
132 the unincorporated portion of Yakima County designated as a critical area inside Shoreline
133 jurisdiction, designated as Shoreline jurisdiction and designated as a special flood hazard
134 area under the National Flood Insurance Program, however, this title does not apply to the
135 situations below, except that the Flood Hazard protection provisions of Chapter 5 will
136 continue to apply as determined by the applicability provision in 16D.05.20:
137 a) Within critical areas and shorelines designated by this title or amendments that may later
138 be adopted, there may exist lots, structures and uses which were lawfully established
139 before this title was initially adopted, amended or readopted, as provided below, but
140 which would be subsequently prohibited, regulated or restricted under this ordinance. It
141 is the intent of this title to permit these pre-existing legal non-conformities to continue
142 without requirement to change said non-conformity until such time as conformance is
143 required through permits for development in the future. The adoption and amendment
144 dates of the relevant regulations are provided below:
145 i) Shoreline Master Program adopted September 5, 1974;
146 ii) Shoreline Master Program amended March 26, 1981;
147 iii) Shoreline Master Program amended November 1, 1981;
148 iv) Critical Areas Ordinance adopted July 12, 1994;
149 v) Critical Areas Ordinance amended October 1, 1995;
150 vi) Flood Hazard Ordinance adopted June 5, 1985.
151 b) Critical areas on federally owned lands that are outside shoreline jurisdiction are not
152 subject to this title;
153 c) Critical areas on federally owned lands within Shoreline jurisdiction in situations that do
154 not have to obtain permits or follow the permit system, as provided in 16D.01.07
155 (Applicability to Federal Agencies), are not subject to this title;
156 d) Forest practices, as defined by this title, carried out under a Washington Department of
157 Natural Resources Forest Practice permit are not subject to this title, except those that
158 involve Shoreline jurisdiction, involve a conversion of forest land to a non-forestry use,
159 involve a conversion option harvest plan, or take place on lands platted after January 1,
160 1960;
161 e) Livestock grazing on publicly owned land, when carried out under an agreement that
162 includes a resource management plan that will be monitored by a public entity is not
163 subject to this title;
164 f) Changing agricultural crops within an existing farming operation is not considered new
165 development, construction or use, provided that the existing area under agricultural
166 production is not extended further into a vegetative buffer identified under 16D.06.16,
167 and provided that the natural contour of the land subject to this title is not altered by
168 excavation and filling;

- 169 g) Minor, temporary or transient activities, including those of a recreational nature, that do
170 not alter the environment or require a dedicated staging area, use area, or route are not
171 subject to this title, and including temporary signs (election, sale, rent, etc.);
- 172 h) Critical Areas within the exterior boundaries of the Yakama Nation that are located
173 within the designated Closed Areas or not under County jurisdiction as a result of the
174 Supreme Court decision COUNTY OF YAKIMA et. al. v. CONFEDERATED TRIBES
175 AND BANDS OF THE YAKIMA INDIAN NATION (1991) are not subject to this title.
- 176 i) Mining, as defined by this title, that is carried out under a Washington Department of
177 Natural Resources reclamation permit is not subject to the geologically hazardous areas
178 provisions of this title for erosion hazard areas, oversteepened slope hazard areas,
179 landslide hazard areas and suspected geologic hazard areas. Other critical areas
180 provisions continue to apply.
- 181 2) Other rules and regulations, including the Yakima County Subdivision Ordinance (YCC Title
182 14), the Yakima County Zoning Ordinance (YCC Title 15), the Yakima Urban Area Zoning
183 Ordinance (YCC Title 15A), and the Building and Construction Ordinance (YCC Title 13),
184 shall remain in full force and effect as they apply to a designated critical area or Shoreline.
185 Wherever the requirements of YCC Title 16D conflict with the requirements of the
186 applicable Zoning Ordinance, the Subdivision Ordinance or any other lawfully adopted
187 County rules or regulations, the most restrictive standards shall govern.

188
189 **16D.01.06 Science and Protection of Anadromous Fish**

190 This title has been updated consistent with the requirements for:

- 191 1) Using the best available science as required by RCW 36.70A.172 (Critical areas --
192 Designation and protection -- Best available science to be used) and WAC 365-195-900
193 through WAC 365-195-920 (BAS Background and purpose);
- 194 2) An integrated use of the natural and social sciences, and the environmental design arts, and
195 utilization of all available information regarding hydrology, geography, topography, ecology,
196 economics, and other pertinent data, as required by RCW 90.58.100 (Programs as
197 constituting use regulations);
- 198 3) Giving special consideration to conservation or protection measures necessary to preserve or
199 enhance anadromous fish and their habitat, (salmon, steelhead, etc.) as required by RCW
200 36.70A.172 (Best available science to be used) and WAC 365-195-925 (Criteria for
201 demonstrating "special consideration" has been given to anadromous fisheries).

202
203 **16D.01.07 Applicability of Permit System to Federal Agencies**

204 The permit system shall be applied in the following manner to federal agencies on lands within
205 Shoreline jurisdiction:

- 206 1) Federal agencies shall not be required to obtain permits for developments undertaken by the
207 federal government on lands owned in fee by the federal government, or on easements
208 obtained by the federal government for a specified purpose where the proposed development
209 is consistent with the specified purpose, unless under either circumstance the federal
210 government grants or reserves to the state or Yakima County, substantial jurisdiction over
211 activities on those lands;
- 212 2) The permit system shall apply to all nonfederal developments and uses undertaken on federal
213 lands and on lands subject to nonfederal ownership, lease or easement, even though such
214 lands may fall within the external boundaries of a federal ownership;

- 215 3) The permit system shall apply to developments undertaken on lands not federally owned but
216 under lease, easement, license, or other similar federal property rights short of fee ownership,
217 to the federal government;
- 218 4) The above paragraphs shall be controlling for the purposes of Shoreline permits for federal
219 land or federal projects; however the following attempts to clarify these limits for practical
220 use:
- 221 a) Federal development on federally owned land is not required to obtain a permit;
 - 222 b) Federal development on a federally owned lease is not required to obtain a permit, as
223 long as the development is consistent with the purpose of the lease;
 - 224 c) Development on federally owned land under a non-federal lease or easement must obtain
225 a Shoreline permit;
 - 226 d) Non-federal development or use on federally owned land must obtain a Shoreline permit;
 - 227 e) Development on non-federal land must obtain a Shoreline permit, even if it is leased,
228 rented, etc. to the federal government, or it is within the boundaries of federal ownership.
229

230 **16D.01.08 Administrative Authority**

- 231 1) The Yakima County Public Services Department - Planning Division shall be
232 responsible for the general administration of this title. The Planning Division
233 Manager or the Manager's designee shall serve as the Administrative Official of this
234 title, except as noted in Chapters 16D.05.20 through 16D.05.72. The Administrative
235 Official shall establish procedures for implementation of this title.
- 236 a) Where the provisions of these regulations may be unclear in special
237 circumstances, or where judgment must be made because of the nature of the
238 language used, the Administrative Official shall make such interpretations. Such
239 interpretation shall specify whether the issue is under Shoreline jurisdiction or
240 not. A separate record of all interpretations shall be kept. To avoid arbitrariness,
241 any earlier interpretation that may relate to a pending action shall be examined by
242 the Administrative Official for its effect or influence on the pending action.
 - 243 b) A written request for interpretation of any provision of this title, or any rule or
244 regulation adopted pursuant to this title may be submitted to the Administrative
245 Official. Each request shall set forth the specific provision or provisions to be
246 interpreted and the facts of the specific situation giving rise to the request for an
247 interpretation. Interpretations shall be processed in accordance with YCC Title
248 16B.03.070.
249

250 **16D.01.09 Severability**

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

254 **Chapter 16D.02**
255 **DEFINITIONS**
256

257 **16D.02.001 Definitions Generally**

258 a) Whenever the words and terms set forth in this chapter appear in this title, they shall be given
259 the meaning attributed to them by this chapter. References to specific provisions of YCC Title
260 13 and the International Building Codes, statutes and Washington Administrative Code provide
261 greater detail for purposes of administering this title.

262 b) Definitions listed in this chapter shall be applied to all critical areas, including Flood Hazard
263 Areas, whether they occur inside or outside Shoreline jurisdiction, unless the definition itself
264 identifies the term as applying to Shoreline or Flood Hazard administration, in which case the
265 definition only applies to that situation.

266
267 **16D.02.005 Abutting**

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

270
271 **16D.02.010 Adjacent**

272 "Adjacent" means to be nearby and not necessarily abutting.
273

274 **16D.02.012 Administrative Official**

275 "Administrative Official" means the duly appointed Planning Division Manager of the Public
276 Services Department, or his designee, or the relevant decision maker identified in YCC Title 16B
277 (Project Permit Administration); synonymous with "administrator" or "director."
278

279 **16D.02.015 Agricultural Activities**

280 For purposes of administering the Shoreline Master Program "Agricultural activities" means
281 agricultural uses and practices including, but not limited to: Producing, breeding, or increasing
282 agricultural products; rotating and changing agricultural crops; allowing land used for
283 agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing
284 land used for agricultural activities to lie dormant as a result of adverse agricultural market
285 conditions; allowing land used for agricultural activities to lie dormant because the land is
286 enrolled in a local, state, or federal conservation program, or the land is subject to a conservation
287 easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural
288 equipment; maintaining, repairing, and replacing agricultural facilities, provided that the
289 replacement facility is no closer to the shoreline than the original facility; and maintaining
290 agricultural lands under production or cultivation. Agricultural activities include plowing,
291 discing, harrowing, compacting, planting, and harvesting, spraying, etc;

- 292 1) "Agricultural products" includes but is not limited to horticultural, viticultural,
293 floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary
294 products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar
295 hardwood trees grown as crops and harvested within twenty years of planting; and
296 livestock including both the animals themselves and animal products including but not
297 limited to meat, upland finfish, poultry and poultry products, and dairy products;

- 298 2) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to: (i)
299 The following used in agricultural operations: Equipment; machinery; constructed

300 shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion,
301 withdrawal, conveyance, and use equipment and facilities including but not limited to
302 pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for
303 transporting personnel, livestock, and equipment to, from, and within agricultural lands;
304 (iii) farm residences and associated equipment, lands, and facilities; and (iv) roadside
305 stands and on-farm markets for marketing fruit or vegetables; and
306 3) "Agricultural land" means those specific land areas on which agriculture activities are
307 conducted as of the date of adoption of a local master program as evidenced by aerial
308 photography or other documentation. After the effective date of the master program land
309 converted to agricultural use is subject to compliance with the requirements of the master
310 program.

311
312 **16D.02.025 Alluvial fan**

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

320
321 **16D.02.030 Applicant**

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

324
325 **16D.02.033 Aquaculture**

326 For purposes of administering the Shoreline Master Program "Aquaculture" means the culture
327 and/or farming of food fish, shellfish, and other aquatic plants and animals in fresh water.
328 Aquaculture practices may include but are not limited to hatching, seeding or planting,
329 cultivating, feeding, raising, harvesting of planted crops or of natural crops so as to maintain an
330 optimum yield, and processing of aquatic plants or animals.

331
332 **16D.02.035 Aquifer**

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

335
336 **16D.02.040 Critical Aquifer Recharge Area**

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

340
341 **16D.02.042 Bank**

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

344
345 **16D.02.043 Bankfull depth**

1 **BOARD OF YAKIMA COUNTY COMMISSIONERS**

2
3 **ORDINANCE NO. 14-2007**

4
5 **IN THE MATTER OF ADOPTING ORDINANCE NO. 14-2007 PERTAINING TO**
6 **SHORELINE MANAGEMENT PLANNING AND IMPLEMENTATION, ADOPTING**
7 **AMENDMENTS TO PLAN 2015 AND THE YAKIMA COUNTY SHORELINE MASTER**
8 **PROGRAM;**

9
10 WHEREAS, the Shoreline Management Act (SMA) finds that shorelines of the state are among
11 the most valuable and fragile of our natural resources and that there is great concern throughout
12 the state and Yakima County relating to their utilization, protection, restoration, and
13 preservation; and

14
15 WHEREAS, the SMA finds that much of the shorelines of the state and the uplands adjacent
16 thereto are in private ownership; that unrestricted construction on the privately owned or publicly
17 owned shorelines of the state is not in the best public interest; and therefore, coordinated
18 planning is necessary in order to protect the public interest associated with the shorelines of the
19 state while, at the same time, recognizing and protecting private property rights consistent with
20 the public interest; and

21
22 WHEREAS, the SMA declares that the interest of all of the people shall be paramount in the
23 management of shorelines of statewide significance; and

24
25 WHEREAS, the SMA contemplates protecting against adverse effects to the public health, the
26 land and its vegetation and wildlife, and the waters of the state and their aquatic life, while
27 protecting generally public rights of navigation and corollary rights incidental thereto; and

28
29 WHEREAS, the SMA requires Yakima County to give preference to uses in the following order
30 of preference for shorelines of statewide significance, which:

- 31 (1) Recognize and protect the statewide interest over local interest;
32 (2) Preserve the natural character of the shoreline;
33 (3) Result in long term over short term benefit;
34 (4) Protect the resources and ecology of the shoreline;
35 (5) Increase public access to publicly owned areas of the shorelines;
36 (6) Increase recreational opportunities for the public in the shoreline;
37 (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or
38 necessary; and

39
40 WHEREAS, the SMA requires in the implementation of this policy the public's opportunity to
41 enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to
42 the greatest extent feasible consistent with the overall best interest of the state and the people
43 generally; and

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

393

394 **16D.02.080 Bulkhead**

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

398

399 **16D.02.082 Cabin**

400 For purposes of administering the Shoreline Master Program "Cabin" means a small single
401 family residence of 800 square feet or less, without a garage or carport and without large
402 accessory buildings. Small accessory buildings, such as detached storage sheds or accessory
403 structures totaling 120 square feet or less, may be allowed. Dwellings not meeting these
404 standards are considered standard single family residences.

405

406 **16D.02.085 Channel**

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

410

411 **16D.02.090 Channel Migration Zone**

412 For purposes of administering the Shoreline Master program "Channel migration zone (CMZ)"
413 means the area along a river within which the channel(s) can be reasonably predicted to migrate
414 over time as a result of natural and normally occurring hydrological and related processes when
415 considered with the characteristics of the river and its surroundings.

416

417 **16D.02.092 Chief Building Official**

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

420

421 **16D.02.095 Classification**

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

424

425 **16D.02.100 Clearing**

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

428

429 **16D.02.110 Compaction**

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

431

432 **16D.02.115 Confinement Feeding Operation**

433 "Confinement feeding operation" means the use of structures or pens for the concentrated
434 feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep, or
435 swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal

436 holding pens, poultry and/or egg production facilities and fur farms, but does not include animal
437 husbandry and normal farming practices.

438

439 **16D.02.120 Construction**

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

442

443 **16D.02.125 Designated**

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

445

446 **16D.02.130 Department**

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

448

449 **16D.02.135 Development**

450 "Development" means any use as defined under RCW 90.58.030(3)(d) (definitions), or the
451 division of land into lots or parcels in accordance with the county Subdivision Ordinance (YCC
452 Title 14), and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and
453 mineral materials, or other permanent or temporary modification of a site up to, but not
454 including, construction as defined in this chapter. For the purpose of Chapters 16D.05.20 through
455 16D.05.72, "development" also means any manmade change to improved or unimproved real
456 estate located within the special flood hazard area, including but not limited to buildings or other
457 structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or
458 permanent storage of equipment and works defined in this chapter. (Ref. IBC G 201.2)

459

460 **16D.02.140 Dike**

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

463

464 **16D.02.145 Dock**

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

467

468 **16D.02.150 Dredging**

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

475

476 **16D.02.160 Earth Material**

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

478

479 **16D.02.163 Ecological functions**

480 For purposes of administering the Shoreline Master Program "Ecological functions" or
481 "shoreline functions" means the work performed or role played by the physical, chemical, and

482 biological processes that contribute to the maintenance of the aquatic and terrestrial
483 environments that constitute the shoreline's natural ecosystem.

484

485 **16D.02.166 Ecosystem-wide processes**

486 For purposes of administering the Shoreline Master Program "Ecosystem-wide processes" means
487 the suite of naturally occurring physical and geologic processes of erosion, transport, and
488 deposition; and specific chemical processes that shape landforms within a specific shoreline
489 ecosystem and determine both the types of habitat and the associated ecological functions.

490

491 **16D.02.170 Enhance**

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

495

496 **16D.02.175 Ephemeral Stream**

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

501

502 **16D.02.180 Erosion**

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

505

506 **16D.02.185 Events and Temporary Uses**

507 For purposes of administering the Shoreline Master Program "Events and Temporary Uses"
508 means a social or community occasion or activity lasting for a limited time. Events and
509 Temporary Uses within permitted facilities or legally non-conforming facilities that are designed
510 for such uses are not included in this definition, as long as they do not materially interfere with
511 the normal public use of the water or shorelines of the state.

512

513 **16D.02.190 Excavation**

514 "Excavation" means the mechanical removal of earth material.

515

516 **16D.02.195 Feasible**

517 For purposes of administering the Shoreline Master Program "Feasible" means that an action,
518 such as a development project, mitigation, or preservation requirement, meets all of the
519 following conditions:

520 (a) The action can be accomplished with technologies and methods that have been used in the
521 past in similar circumstances, or studies or tests have demonstrated in similar circumstances that
522 such approaches are currently available and likely to achieve the intended results;

523 (b) The action provides a reasonable likelihood of achieving its intended purpose; and

524 (c) The action does not physically preclude achieving the project's primary intended legal use.

525

526 **16D.02.200 Fill**

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

533

534 **16D.02.205 Flood**

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

538

539 **16D.02.206 Flood Hazard Permit**

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

542

543 **16D.02.207 Flood Insurance Rate Map**

544 "Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency
545 Management Agency has delineated both the areas of special flood hazards and the risk premium
546 zones applicable to the community.

547

548 **16D.02.208 Flood Insurance Study**

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

552

553 **16D.02.210 Floodplain**

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

559

560 **16D.02.215 Flood-prone**

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

565

566 **16D.02.216 Flood-proofing**

567 "Flood-proofing" for purposes of administering 16D.05 means any combination of structural and
568 nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood
569 damages to lands, water and sanitary facilities, structures and contents of buildings.

570

571 **16D.02.220 Floodway**

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

575

576 **16D.02.225 Floodway Fringe**

577 "Floodway fringe" for purposes of administering 16D.05 means that portion of a floodplain
578 which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve
579 as temporary storage for floodwaters.

580

581 **16D.02.230 Forest Land**

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

583

584 **16D.02.240 Forest Practices**

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

591

592 **16D.02.250 Grade**

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

598

599 **16D.02.255 Grading**

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

601

602 **16D.02.260 Groundwater**

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

606

607 **16D.02.263 Hydrologically Related Critical Areas (HRCA)**

608 "Hydrologically Related Critical Areas (HRCA)" include all those areas identified in section
609 16D.06.03, within Yakima County which are important and deserving of protection by nature of
610 their value for the functional properties found in Section 16D.06.05.

611

612 **16D.02.266 Hyporheic**

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

615

616 **16D.02.270 Intermittent Streams**

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

622

623 **16D.02.275 Lake or pond**

624 "Lake or pond" means an inland body of standing water. The term includes the reservoir or
625 expanded part of a river behind a dam.

626

627 **16D.02.281 Lowest Floor**

628 "Lowest floor" for purposes of administering 16D.05 means the lowest floor of the lowest
629 enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for
630 parking of vehicles, building access or storage, in an area other than a basement area, is not
631 considered a building's lowest floor, provided that such enclosure is not built so as to render the
632 structure in violation of the applicable nonelevation design requirements of this title.

633

634 **16D.02.282 Manufactured Home**

635 "Manufactured home" means a structure fabricated on a permanent chassis that is transportable
636 in one or more sections; is designed to be used with or without a permanent foundation when
637 connected to the required facilities; has sleeping, cooking, and plumbing facilities or any
638 combination thereof; and is intended for human occupancy or is being used for residential
639 purposes. Although Washington Administrative Code (WAC) and Yakima County Code Titles
640 13 and 15 separately define and distinguish between "manufactured home" and "mobile home"
641 according to federal or state construction codes for such dwellings, the term "manufactured
642 home" shall include "mobile home" for regulatory purposes under this chapter. The term shall
643 not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park
644 trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or
645 used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a
646 manufactured or mobile home under any federal or state law. For floodplain management
647 purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and
648 other similar vehicles shall be considered manufactured homes when placed on a site for greater
649 than one hundred eighty days.

650

651 **16D.02.283 Manufactured Home Park or Subdivision**

652 "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided
653 into two or more manufactured home lots for rent or sale in accordance with YCC Title 15 of this
654 Code.

655

656 **16D.02.284 Manufactured Home Park or Subdivision, Existing**

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

662

663 **16D.02.285 Minerals**
664 "Minerals" means gravel, sand and metallic and non-metallic substances of commercial value.
665

666 **16D.02.290 Mining**
667 "Mining" means the removal of naturally occurring minerals and materials from the earth for
668 commercial value. Mining includes processing and batching. Mining does not include large
669 excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation
670 (16D.06.20). Also see introduction to Appendix B.
671

672 **16D.02.295 Native**
673 "Native" means indigenous to, or originating naturally within Yakima County.
674

675 **16D.02.300 Natural Conditions**
676 "Natural conditions" means those conditions which arise from or are found in nature and not
677 modified by human intervention; not to include artificial or manufactured conditions.
678

679 **16D.02.302 New Construction**
680 "New construction" for purposes of administering 16D.05 means structures for which the start of
681 construction commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-
682 1985 in order to meet the requirements of the National Flood Insurance Program. October 1,
683 1995, the effective date of the ordinance codified in this title shall be used for defining the term
684 new construction as it applies to all other Critical Areas requirements established under this Title
685 by Ordinance 8-1995.
686

687 **16D.02.303 Nonconforming Structure**
688 "Nonconforming structure" for purposes of administering 16D.05 means a structure which was
689 legally constructed prior to October 1, 1995, the effective date of this title, but which would not
690 be permitted as a new structure under the terms of this title because the structure is not in
691 conformance with the applicable elevation and/or flood-proofing requirements.
692

693 **16D.02.304 Nonconforming Use**
694 "Nonconforming use" for purposes of administering 16D.05 means the use of a building,
695 structure or land which was lawfully established, existing and maintained at the effective date of
696 provisions of this title but which, because of the application of this title to it, no longer conforms
697 to the use or applicable elevation and/or flood-proofing requirements of this title and which
698 would not be permitted as a new use under the terms of this title.
699

700 **16D.02.305 Ordinary High Water Mark (OHWM)**
701 "Ordinary High Water Mark" means that mark on lakes and streams which will be found by
702 examining the bed and banks and ascertaining where the presence and action of waters are so
703 common and usual, and so long continued in ordinary years, as to mark upon the soil a character
704 distinct from that of the abutting upland.
705

706 **16D.02.310 Perennial Stream**
707 "Perennial stream" means a stream that flows year round in normal water years. Groundwater is
708 a source of much of the water in the channel.

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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.

16D.02.321 Qualified Professional

"A qualified Professional" shall meet the following criteria:

- (a) A qualified professional for wetlands must have a bachelors degree or higher in biology, ecology, soil science, botany, or a closely related field, and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.
- (b) A qualified professional for stream corridors and habitat conservation areas must have a bachelors degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years professional experience related to the subject species/habitat type.
- (c) A qualified professional for geologically hazardous areas and preparation of geo-technical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.
- (d) A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.
- (e) A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.
- (f) A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.
- (g) A qualified professional for economic studies must have a bachelors degree or higher in economics or business administration with 5 years of professional experience. The five year standard shall be waived for professionals with a PhD degree.
- (h) Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined acceptable to the Administrative Official.

16D.02.322 Recreation Vehicle

"Recreation vehicle" means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

16D.02.325 Restore

"Restore" means to re-establish the basic functional properties listed in Section 16D.06.05 that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions.

16D.02.330 Revetment

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

757

758 **16D.02.335 Riparian Vegetation**

759 "Riparian Vegetation" means the terrestrial vegetation that grows beside rivers, streams, and
760 other freshwater bodies and that depends on these water sources for soil moisture greater than
761 would otherwise be available from local precipitation.

762

763 **16D.02.340 Riprap**

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

766

767 **16D.02.345 Scour**

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

770

771 **16D.02.355 Shoreline**

772 For purposes of administering the Shoreline Master Program "Shoreline," means those water
773 areas, the associated features, and the land areas within Yakima County that are subject to the
774 State Shoreline Management Act, especially as defined in RCW 90.58.030 (definitions), and as
775 further identified in 16D.10.03 (Shoreline Jurisdiction).

776

777 **16D.02.360 Shore Stabilization**

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

781

782 **16D.02.363 Single Improved Recreational Vehicle Site**

783 For purposes of administering the Shoreline Master Program "Single Improved Recreational
784 Vehicle Site" means a site on which a recreational vehicle, as defined in 16D.02.322, may be
785 parked with minimal services (such as electricity, well and septic system), without a garage or
786 carport, and without large accessory buildings (small detached storage sheds or accessory
787 structures totaling 120 square feet or less may be allowed). Recreational vehicle sites not
788 meeting these criteria are considered single family residences.

789

790 **16D.02.365 Slope**

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

793

794 **16D.02.366 Solid Waste**

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

799

800 **16D.02.367 Special Flood Hazard Areas**

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

804

805 **16D.02.368 Start of Construction**

806 "Start of construction" for purposes of administering 16D.05, means the first placement of
807 permanent construction of a structure (other than a manufactured home) on a site, such as the
808 pouring of slabs or footings or any work beyond the stage of excavation. "Permanent
809 construction" does not include land preparation, such as clearing, grading and filling, nor does it
810 include the installation of streets or walkways; nor does it include excavation for a basement,
811 footings, piers or foundations, or the erection of temporary forms; nor does it include the
812 installation on the property of accessory buildings, such as garage, or sheds not occupied as
813 dwelling units or not as part of the main structure. For a structure (other than a manufactured
814 home) without a basement or poured footings, the "start of construction" includes the first
815 permanent framing or assembly of the structure or any part thereof on its piling or foundation.
816 For manufactured homes not within a manufactured home park, "start of construction" means the
817 affixing of the manufactured home to its permanent site. For manufactured homes within
818 manufactured home parks, "start of construction" is the date on which the construction of
819 facilities for servicing the site on which the manufactured home is to be affixed (including, at a
820 minimum, the construction of streets, either final site grading or the pouring of concrete pads,
821 and installation of utilities) is completed.

822

823 **16D.02.370 Stream**

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

829

830 **16D.02.380 Stream Corridor**

831 "Stream corridor," as used in this title, means those features listed and described in Chapter
832 16D.06.03 and related appendices to this title.

833

834 **16D.02.390 Structure**

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

839

840 **16D.02.395 Substantial Improvement**

841 "Substantial improvement" for purposes of administering 16D.05 means any repair,
842 reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent
843 of the assessed value of the structure either:

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

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

852 (1) Any project for improvement to a structure to comply with existing state or local health,
853 sanitary or safety code specifications which are solely necessary to assure safe living conditions;
854 or

855 (2) Any alteration of a structure listed on the National Register or Historic Places or a state
856 inventory of historic places.

857

858 **16D.02.400 Use**

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

861

862 **16D.02.415 Vegetative Buffer or Buffer**

863 "Vegetative buffer or Buffer" means an area extending landward from the ordinary high water
864 mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise
865 allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for
866 the performance of the basic functional properties of a stream corridor, wetland and other
867 hydrologically related critical areas as set forth in Chapter 16D.06.05 (Functional Properties) and
868 16D.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not
869 always exist due to degradation of the vegetative buffer before establishment of this title, or due
870 to colonization by non-native species. Such conditions still provide functional properties, though
871 at a lower level, depending on the difference from natural conditions.

872

873 **16D.02.425 Wetland**

874 "Wetland" or "wetlands" means that area inundated or saturated by surface water or groundwater
875 at a frequency and duration sufficient to support, and under normal circumstances does support, a
876 prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands
877 generally include swamps, marshes, bogs and similar areas. Wetlands do not include those
878 artificial wetlands intentionally created from non-wetland sites, including, but not limited to,
879 irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater
880 treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1,
881 1990, that were unintentionally created as a result of the construction of a road, street, or
882 highway. However, wetlands may include those artificial wetlands specifically intentionally
883 created from non-wetland areas to mitigate conversion of wetlands.

884

885 **16D.02.430 Wildlife**

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

891

892 **16D.02.435 Wildlife Habitat**

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

896

897 **16D.02.440 Works**

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

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Chapter 16D.03
APPLICATION AND REVIEW PROCEDURES

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General Provisions

16D.03.01 Shoreline Development Authorization Required

- 1) No new development, construction or use shall occur within Shoreline jurisdiction without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in section 16D.03.05 (Minor Activities Allowed without a Permit or Exemption). Exemptions, as provided for in sections 16D.03.07 through 16D.03.09, shall be considered as development authorization, including those taking place on federal lands and requiring permits or review as provided in 16D.01.07 (Applicability to Federal Agencies) but *qualifying for other exemptions under this chapter*. All proposed uses and development occurring within Shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program.
- 2) With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within Shoreline jurisdiction shall be processed according to the provisions of this chapter and the Project Permit Administration Ordinance (YCC Title 16B).
- 3) Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by Yakima County. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.
- 4) Permits issued in accordance with this title shall run with the land.

Inquiry and Early Assistance

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

- 1) Prior to the review or consideration of any proposed development, construction or use, except those provided under Applicability (16D.01.05), and Minor Activities Allowed Without a Permit or Exemption (16D.03.05), the County shall consider available information to determine if a critical area is likely to be present. The presence of a critical area found on the paper and electronic maps within or adjacent to the property proposed for development is sufficient foundation for the Administrative Official to require preparation of a critical area identification form, provided by the department, and a preliminary site plan. This critical area identification form and preliminary site plan may be one piece of information used to analyze how a critical area could be affected by a development proposal. To the extent possible, all critical area features must be identified on the critical area identification form and shown on the preliminary site plan prior to the Administrative Official determining whether the development is subject to this title.
- 2) Upon receipt of a critical area identification form and site plan, the Administrative Official will typically conduct a site examination to review critical area conditions on site. The Administrative Official shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner for the site examination during any proposal review, restoration, emergency action, or monitoring period.

1033 to allow attendance by the project proponent and necessary staff. To assist in project review and
1034 discussion, prior to the pre-application conference, the project proponent must submit a
1035 preliminary site plan showing the nature and scope of the proposed project along with any
1036 existing features of the property having a relationship to the project. The pre-application
1037 conference is intended to allow the Administrative Official to:

- 1038 1) Establish the scope of the project and the critical area features involved or potentially
1039 impacted;
- 1040 2) Consider the degree to which the project may affect or impair a designated critical area and
1041 identify potential concerns that may arise;
- 1042 3) Identify other permits and authorizations which the project proponent may need to obtain;
- 1043 4) Determine whether the project will be processed through the development authorization
1044 procedures of this title or coordinated through the review and approval procedures of another
1045 development permit or authorization required of the project from Yakima County;
- 1046 5) Provide the proponent with resources and technical assistance (such as maps, scientific
1047 information, other source materials, etc.) to assist the proponent in meeting the provisions of
1048 this title and any applicable rules and regulations of other agencies and jurisdictions;
- 1049 6) Determine whether there is a need for a preliminary site assessment or a technical assistance
1050 conference to better define the critical area issues and alternatives;
- 1051 7) Determine whether the project can be processed as an exemption, or if not, what type of
1052 permits or reviews may be needed. Final determination of necessary permits will be made
1053 based on the project design and submittal materials;
- 1054 8) Consider whether a preliminary site assessment may be scheduled in the field to determine
1055 the applicability of the development standards of this title to the project, based on
1056 information contained in the preliminary site plan.

1057
1058 **16D.03.04 Technical Assistance Conference**

1059 If requested by the project proponent or otherwise determined necessary, the department will
1060 arrange a meeting of representatives of those agencies and organizations with expertise, interest,
1061 or jurisdiction in the project. In conjunction with the invitation to attend the technical assistance
1062 conference, the department will provide the potential participants with a project summary
1063 compiled from the pre-application conference. The technical assistance conference may also
1064 involve a preliminary site assessment, if it is determined that resolution of issues related to the
1065 project can be achieved through an on-site review. The purpose of the technical assistance
1066 conference will be to:

- 1067 1) Confirm and define the requirements of any other applicable local, state or federal
1068 regulations;
- 1069 2) Clarify any identified procedural or regulatory conflicts and define the alternative courses of
1070 action available to the applicant in addressing project requirements;
- 1071 3) Determine whether compliance with other existing statutes and regulations will adequately
1072 address the provisions of this title;
- 1073 4) Provide the proponent with guidance, available data and information that will assist in
1074 complying with the provisions of this title and other ordinances and regulations;
- 1075 5) Provide the proponent with guidance concerning project modifications or site enhancements
1076 that would eliminate or minimize impacts to the critical area;
- 1077 6) Provide the proponent with alternatives for securing data, information, or assistance
1078 necessary to the project but not available through the pre-application conference;

- 1079 7) Determine whether a critical area report is necessary, and if so, the qualifications, skills and
1080 expertise required of a consultant to perform the special study.
1081

1082 **Abbreviated Review Alternatives**

1083 **16D.03.05 Minor Activities Allowed without a Permit or Exemption.**

- 1084 1) The following activities are included under 16D.01.05(1) (Applicability) and are allowed
1085 without a permit or exemption:
1086
- 1087 a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping
1088 (including paths and trails) or gardens within a regulated critical area or its buffer.
1089 Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting and
1090 replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation
1091 or indigenous native species to maintain the general condition and extent of such areas.
1092 Cutting down trees and shrubs within a buffer is not covered under this provision, but
1093 maybe covered under an exemption. Excavation, filling, and construction of new
1094 landscaping features, such as concrete work, berms and walls, are not covered in this
1095 provision and are subject to review;
 - 1096 b) Minor maintenance and/or repair of lawfully established structures that do not involve
1097 additional construction, earthwork or clearing. Examples include painting, trim or facing
1098 replacement, re-roofing, etc. Construction or replacement of structural elements is not
1099 covered in this provision, but may be covered under an exemption. Cleaning canals,
1100 ditches, drains, wasteways etc. without expanding their original configuration is not
1101 considered additional earthwork, as long as the cleared materials are placed outside the
1102 stream corridor, wetlands, and buffers;
 - 1103 c) Low impact activities such as hiking, canoeing, viewing, nature study, photography,
1104 hunting, fishing, education or scientific research;
 - 1105 d) Creation of unimproved private trails that do not cross streams or wetlands that are less
1106 than two (2) feet wide and do not involve placement of fill or grubbing of vegetation;
 - 1107 e) Planting of native vegetation;
 - 1108 f) Noxious weed control outside vegetative buffers identified in Chapter 16D.06.16;
 - 1109 g) Noxious weed control within vegetative buffers, if the criteria listed below are met.
1110 Control methods not meeting these criteria may still apply for a restoration exemption, or
1111 other authorization as applicable:
 - 1112 i) Hand removal/spraying of individual plants only;
 - 1113 ii) No area wide vegetation removal/grubbing.

1114 **16D.03.06 Exemption–Procedural Requirements**

1115 Certain activities and uses are exempt from some permit processes and shall instead be reviewed
1116 using the procedures below, except that Flood Hazard exemptions provided in 16D.05.20.06,
1117 shall follow procedures established to administer Chapter 16D.05 (Flood Hazard Areas).

- 1118
- 1119 1) Exemptions shall be construed narrowly and any exempted development shall be consistent
1120 with the policies and provisions of this title.
 - 1121 2) Only those developments that meet the precise terms of one or more of the listed exemptions
1122 may qualify for review under these provisions.
 - 1123 3) If any part of a proposed development is not eligible for exemption, then a development
1124 permit is required for the entire proposed development project.

- 1125 4) The burden of proof that a development or use is exempt from the development permit
 1126 process is on the applicant.
- 1127 5) When a development or use is proposed that does not comply with the bulk, dimensional and
 1128 performance standards of this title, such development must also obtain a Variance
 1129 (16D.03.22).
- 1130 6) All exempted activities shall use reasonable methods to avoid impacts to critical areas. To be
 1131 exempt from this title does not give permission to degrade a critical area or Shoreline or
 1132 ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area
 1133 that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or
 1134 replaced at the responsible party's expense, according to section 16D.06.23 (Reclamation).
- 1135 7) The proponent of an exempt activity shall submit a written request for permit exemption to
 1136 the Administrative Official that describes the activity and states the exemption requested.
 1137 The applicant shall submit to the Administrative Official a written description of the project
 1138 that demonstrates compliance with applicable standards.
- 1139 8) The Administrative Official shall review the exemption request to verify that it complies with
 1140 this title.
- 1141 9) The Administrative Official shall approve or deny the exemption.
- 1142 10) A formal letter of exemption shall be provided where an exempt activity is approved under
 1143 this title. A copy of the exemption shall be kept on file by the Administrative Official. If an
 1144 exemption cannot be granted, the Administrative Official shall notify the applicant in writing
 1145 of the reason, at which time the applicant may pursue other permit processes under this title.
- 1146 11) Conditions may be attached to the approval of exempted developments and/or uses as
 1147 necessary to assure continued consistency of the project with this title.
- 1148 12) Exempt activities are identified in the following locations. Such activities are stated as
 1149 exempt from the substantial development permit or flood hazard permits. However, this
 1150 provision does not exempt an activity from other permits or reviews that may be required
 1151 under this title.
- 1152 a) Those activities listed in sections 16D.03.07 (Exemptions from HRCA, Wetlands, and
 1153 Shorelines) are exempt from the substantial development permit requirements for
 1154 Wetlands (16D.07), Hydrologically Related Critical Areas Features (16D.06.03) and
 1155 Shorelines (16D.10);
- 1156 b) Those activities listed in sections 16D.03.09 (Exemptions for Upland Wildlife Habitat
 1157 and Habitat of Local Importance) are exempt from the substantial development permit
 1158 requirements for Upland Wildlife Habitat and Habitat of Local Importance (16D.06.04);
- 1159 c) Those activities listed in sections 16D.03.08 (Exemptions for Geologically Hazardous
 1160 Areas) are exempt from the substantial development permit requirements for
 1161 Geologically Hazardous Areas (16D.08);
- 1162 d) Those activities listed in sections 16D.05.20.060 are exempt from the Flood Hazard
 1163 Permit requirements for Flood Hazard Areas (16D.05).

1165 **16D.03.07 Exemptions for Hydrologically Related Critical Areas, Wetlands and**
 1166 **Shorelines**

1167 The following development activities are exempt from substantial development permits that are
 1168 required within Shoreline jurisdiction designated in chapter 16D.10.03 (Shoreline Jurisdiction),
 1169 Wetlands designated in chapter 16D.07.02 (Designation and Mapping) and Hydrologically
 1170 Related Critical Areas features designated in section 16D.06.03 (HRCA Features):

- 1171 1) Construction by an owner, lessee, or contract purchaser of a single-family residence for his
1172 own use or the use of his family, which residence meets all requirements of the state agency
1173 or local government having jurisdiction thereof, other than requirements imposed pursuant to
1174 this title. "Single-family residence" means a detached dwelling designed for and occupied by
1175 one family including those structures and developments within a contiguous ownership
1176 which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and
1177 enjoyment of a single-family residence and is located landward of the ordinary high water
1178 mark and the perimeter of a wetland. Normal appurtenances include a garage; deck;
1179 driveway; utilities; fences; installation of a septic tank and drainfield and grading which does
1180 not exceed two hundred fifty cubic yards and which does not involve placement of fill in any
1181 wetland or waterward of the ordinary high water mark. Construction authorized under this
1182 exemption shall be located landward of the ordinary high water mark;
- 1183 2) Construction of the normal protective bulkhead common to single-family residences. A
1184 "normal protective" bulkhead includes those structural and nonstructural developments
1185 installed at or near, and parallel to, the ordinary high water mark for the sole purpose of
1186 protecting an existing single-family residence and appurtenant structures from loss or
1187 damage by erosion. A normal protective bulkhead is not exempt if constructed for the
1188 purpose of creating dry land. When a vertical or near vertical wall is being constructed or
1189 reconstructed, not more than one cubic yard of fill per one foot of wall may be used as
1190 backfill. When an existing bulkhead is being repaired by construction of a vertical wall
1191 fronting the existing wall, it shall be constructed no further waterward of the existing
1192 bulkhead than is necessary for construction of new footings. When a bulkhead has
1193 deteriorated such that an ordinary high water mark has been established by the presence and
1194 action of water landward of the bulkhead then the replacement bulkhead must be located at
1195 or near the actual ordinary high water mark. Bioengineered erosion control projects may be
1196 considered a normal protective bulkhead when any structural elements are consistent with the
1197 above requirements and when the project has been approved by the department of fish and
1198 wildlife;
- 1199 3) Development and construction for which the total cost or fair market value, whichever is
1200 higher, does not exceed five thousand dollars (adjusted for inflation as determined by the
1201 Washington Office of Financial Management using methods provided in RCW
1202 90.58.030(3)(e) and WAC 173-27-040(2)(a)), provided such development and construction
1203 does not involve excavation, fill, or other work which is not consistent with the functional
1204 properties of stream corridors and other hydrologically related critical areas as set forth in
1205 Section 16D.06.05 of this title, and provided that any such development and construction
1206 within Shoreline jurisdiction does not materially interfere with the public use of the water or
1207 shorelines of the state. The total cost or fair market value of the development shall include
1208 the fair market value of any *donated, contributed or found labor, equipment or materials*;
- 1209 4) Construction or practices normal or necessary for farming, irrigation, and ranching activities,
1210 including agricultural service roads and utilities, construction of a barn or similar agricultural
1211 structure, and the construction and maintenance of irrigation structures including but not
1212 limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of
1213 any size, all processing plants, other activities of a commercial nature, and/or alteration of the
1214 contour of the land by leveling or filling other than that which results from normal
1215 cultivation, shall not be considered normal or necessary farming or ranching activities. A
1216 "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock

1217 hay, grain, silage, or other livestock feed, but shall not include land for growing crops or
1218 vegetation for livestock feeding and/or grazing, nor shall it include normal livestock
1219 wintering operations;

1220 5) Normal maintenance or repair of existing structures or developments, including damage by
1221 accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a
1222 decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to
1223 restore a development to a state comparable to its original condition, including but not
1224 limited to its size, shape, configuration, location and external appearance, within a
1225 reasonable period after decay or partial destruction, except where repair involves total
1226 replacement which is not common practice or causes substantial adverse effects to the
1227 shoreline resource or environment. Replacement of a structure or development may be
1228 authorized as repair where such replacement is the common method of repair for the type of
1229 structure or development and the replacement structure or development is comparable to the
1230 original structure or development including but not limited to its size, shape, configuration,
1231 location and external appearance, and the replacement does not cause additional substantial
1232 adverse effects to shoreline resources or environment. The need for replacement resulting
1233 from a neglect of maintenance and repair is not considered a common method of repair.
1234 Replacement of non-conforming uses or facilities may also be subject to section 16D.03.26
1235 (Non-conforming Uses and Facilities);

1236 6) Emergency construction necessary to protect property from damage by the elements,
1237 An "emergency" is an unanticipated and imminent threat, which requires immediate
1238 action or response within a time period too brief to allow full compliance with this title.
1239 The following criteria must exist to qualify any action under an emergency provision:

1240 a) There must be an immediate threat to life, public or private property, or an
1241 immediate threat of serious environmental degradation arising from a natural
1242 condition or technical incident;

1243 b) The emergency response must be confined to the action necessary to protect life
1244 or property from damage;

1245 c) The scope of the emergency response must be limited to the work necessary to
1246 relieve the immediate threat;

1247 d) The emergency response applies only to the period of time in which the actual
1248 emergency exists;

1249 e) The request must be accompanied by a paid permit application or a request for a
1250 non-emergency exemption. Submittal requirements beyond normal exemption
1251 submittal requirements are waived until after the emergency is deemed abated.
1252 As soon as the emergency is deemed abated by appropriate authorities,
1253 compliance with the requirements of this title is required, and may include
1254 removal of the emergency construction if non-structural construction measures
1255 can adequately deal with site issues.

1256 7) Construction of a dock, including a community dock, designed for pleasure craft only, for the
1257 private noncommercial use of the owners, lessee or contract purchaser of a single-family and
1258 multiple-family residence. A dock is a landing and moorage facility for watercraft and does
1259 not include recreational decks, storage facilities or other appurtenances. This exception
1260 applies if the fair market value of the dock does not exceed ten thousand dollars, but if
1261 subsequent construction having a fair market value exceeding two thousand five hundred

- 1262 dollars occurs within five years of completion of the prior construction, the subsequent
1263 construction shall be subject to a substantial development permit;
- 1264 8) The operation, maintenance or construction of canals, waterways, drains, reservoirs, or other
1265 manmade facilities that now exist or are hereinafter created or developed as a part of an
1266 irrigation system for the primary purpose of making use of system waters, including return
1267 flow and artificially stored ground water from the irrigation of lands;
- 1268 9) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing
1269 on September 8, 1975, effective date for this Shoreline Master Program, for land within
1270 Shoreline jurisdiction, which were created, developed, or utilized primarily as a part of an
1271 agricultural drainage and diking system;
- 1272 10) Construction or modification, by or under the authority of the Coast Guard or a designated
1273 port management authority, of navigational aids such as channel markers and anchor buoys;
- 1274 11) Any project with a certification from the governor pursuant to chapter 80.50 RCW (Energy
1275 facilities — site locations);
- 1276 12) Watershed restoration projects that are authorized by the sponsor of a watershed restoration
1277 plan and that implements the plan or a part of the plan, and meets the requirements of WAC
1278 173-27-040(6), as amended;
- 1279 13) Site exploration and investigation activities that are prerequisite to preparation of an
1280 application for development authorization under this chapter, if:
- 1281 a) The activity does not interfere with the normal public use of surface waters within
1282 Shoreline jurisdiction;
- 1283 b) The activity will have no significant adverse impact on the environment including but not
1284 limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
- 1285 c) The activity does not involve the installation of any structure, and upon completion of the
1286 activity the vegetation and land configuration of the site are restored to conditions
1287 existing before the activity;
- 1288 d) A private entity seeking development authorization within Shoreline jurisdiction must
1289 first posts a performance bond or provides other evidence of financial responsibility to
1290 the local jurisdiction to ensure that the site is restored to preexisting conditions.
- 1291 14) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020
1292 (control of spartina and purple loosestrife), through the use of an herbicide or other treatment
1293 methods applicable to weed control that are recommended by a final environmental impact
1294 statement published by the Department of Agriculture or the Department of Ecology jointly
1295 with other state agencies under chapter 43.21C RCW (SEPA);
- 1296 15) A public or private project, the primary purpose of which is to improve fish or wildlife
1297 habitat or fish passage that meets the requirements of WAC 173-27-040(p) as amended.
- 1298 a) The project has been approved in writing by the Department of Fish and Wildlife as
1299 necessary for the improvement of the habitat or passage and appropriately designed and
1300 sited to accomplish the intended purpose;
- 1301 b) The project has received hydraulic project approval, when required, by the department of
1302 fish and wildlife pursuant to chapter 75.20 RCW (Hydraulics Code);
- 1303 c) The Administrative Official has determined that the project is consistent with this title;
- 1304 d) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181
1305 (Fish Habitat Enhancement Projects) are deemed to be consistent with this title.
- 1306 16) Hazardous substance remedial actions, which a consent decree, order or agreed order has
1307 been issued pursuant to chapter 70.105D RCW (Model Toxics Control Act) or when the

1308 Department of Ecology conducts a remedial action under chapter 70.105D RCW (Model
1309 Toxics Control Act). The Department of Ecology shall assure that such projects comply with
1310 the substantive requirements of chapter 90.58 RCW (SMA), chapter 173-26 WAC (SMA
1311 Guidelines) and the Shoreline Master Program, when applicable.

- 1312 17) The removal of trees that are hazardous, posing a threat to public safety, or posing an
1313 imminent risk of damage to private property, from critical areas and buffers, provided that:
- 1314 a) A dead tree within a buffer may be shortened to the point that the tree will not strike a
1315 structure or defined vehicle parking area. The remainder shall be maintained to provide
1316 wildlife habitat, nesting locations and perch sites. A remainder less than ten (10) feet tall
1317 may be removed completely;
 - 1318 b) A diseased or damaged tree may be removed as determined by the Administrative
1319 Official;
 - 1320 c) The removed portion of trees should be placed within the vegetative buffer area as
1321 wildlife habitat, unless it will interfere with a maintained vegetation area identified in
1322 section 16D.03.05(a) (Minor Activities), or as determined otherwise by the
1323 Administrative Official. Portions of trees to be removed from the buffer area should be
1324 felled to the outer edge of a vegetative buffer and dragged out. Heavy equipment is not
1325 allowed within the buffer, except within areas identified in 16D.03.05(a) (Minor
1326 Activities). Damaged riparian vegetation must be repaired;
 - 1327 d) Each tree that is felled or topped shall be replaced in a manner acceptable to the
1328 Administrative Official.
- 1329

1330 **16D.03.08 Exemptions for Geologically Hazardous Areas**

1331 The following development activities are exempt from substantial development permits that are
1332 required for Geologically Hazardous Areas designated in chapter 16D.08:

- 1333 1) Additions to or alteration of existing single family residences;
 - 1334 2) Uses and surface disturbances (clearing and grubbing) that do not include excavation, fill or
1335 irrigation;
 - 1336 3) Structures less than 200 square feet that are not used as a place of employment or residence
1337 (fences, sheds, gazebos, etc.);
 - 1338 4) Oil, gas, wind or other exploration that does not include explosions, roads, excavation or fill.
- 1339

1340 **16D.03.09 Exemptions for Upland Wildlife Habitat and Habitats of Local Importance**

1341 The following development activities are exempt from substantial development permits that are
1342 required for Upland Wildlife Habitat and Habitats of Local Importance designated in section
1343 16D.06.04:

- 1344 1) Agricultural and other uses that maintain the existing natural vegetation (rangeland grazing,
1345 stock fences, outdoor recreation, etc.);
- 1346 2) Any development and associated facilities with less than a ½ acre of disturbance area on
1347 existing lots;
- 1348 3) New driveways or roads less than ½ mile in length;
- 1349 4) Additions to or alteration of existing single family residences and associated facilities;
- 1350 5) Subdivision consistent with zoning districts, with roads totaling less than a 1/4 mile in length
1351 or less. Clustering to reduce infrastructure is encouraged
- 1352 6) Development for which a biological assessment or a biological opinion for federal review is
1353 provided.

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16D.03.10 Mitigation requirements

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

Review Process

16D.03.11 Application Submittal

- 1) Application for a development authorization under this title shall be made on forms provided by the department. The application submittal shall include a site plan drawn to scale showing:
 - a) the actual shape and dimensions of the property site to be used;
 - b) existing and proposed structures;
 - c) excavation, fill, drainage facilities, topography, slope, and;
 - d) such other information as is needed to determine the nature and scope of the proposed development, including the maximum extent of the project site with respect to construction, excavation, equipment and material storage, and other project related work.
- 2) The site plan should also show the location of all critical areas, such as those identified in sections 16D.03.02 (Critical Areas Identification Form and Critical Areas Reports) and 16D.03.17 (Critical Areas Report Requirements), include all required critical areas reports prepared in conformance with 16D.03.17, and include the permit information required either in YCC Title 16B (Project Permit Administration) or in chapter 16D.05.44 (Flood Hazard Protection Administration), as appropriate.
- 3) To be accepted as complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this title or requested

1399 on the basis of the pre-application conference (16D.03.03), or technical assistance conference
 1400 (16D.03.04).

1401
 1402 **16D.03.12 Determination of Review Process**

- 1403 1) The Administrative Official shall determine from the application submittal, and other
 1404 available information what type of permit or review is required under this title. The
 1405 Administrative Official shall make such determination as early in the application process as
 1406 is possible and shall inform the project applicant in writing of any application needs.
 1407 Available information used in this determination may include:
 1408 a) critical areas identification form;
 1409 b) pre-application conference information;
 1410 c) technical assistance conference information.
 1411 2) Specific information on when a permit or review is required, its review process type and
 1412 review criteria are found in the section for each permit or review. However, a brief
 1413 description of each type of permit or review is provided in Table 3-1 below. Some permits or
 1414 reviews are general and all projects will have a general review. Some permits are more
 1415 specialized and apply only in specific cases or situations. More than one (1) permit or review
 1416 may be needed for a project.

1417 **Table 3-1**

General Permits or Reviews
Substantial Development. Substantial development projects include any development subject to RCW Chapter 90.58, the Shoreline Management Act.
Exemptions. Exemptions are generally minor activities that do not need to go through the permit process.
Specific Permits
Conditional Use Permit. Shoreline Conditional Uses are those uses within Shoreline jurisdiction that are identified in Table 16D.10.05 as conditional uses, and that are usually seen as uses that either do not need a Shoreline location, are considered not to be suitable for siting in shoreline locations, or have impacts that need closer scrutiny.
Variance. A Variance may be used within Shoreline jurisdiction to grant relief from specific performance standards where there are extraordinary circumstances that will impose unnecessary hardships.
Non-conforming Use or Facility Alteration. Non-conforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.
Minor revisions to an Existing Permit. Minor Revisions to an Existing Permit allow simplified review of certain changes to a project that has previously received a permit.
Reasonable Use Exceptions. Reasonable Use Exceptions provide an alternative to landowners when all reasonable use of a property has been prohibited.
Flood Hazard Permit. A Flood Hazard Permit is required for activities within floodplains. It is different in that it has special administrative provisions, and may include many of the specific permit types noted above within it, which are described in chapters 16D.05.20 through 16D.05.72. It is focused mainly on construction methods, but may include site design to minimize impacts to adjacent properties or resources, or to locate the proposed development in areas where depth and velocity of floodwaters during the base flood do not exceed the current standards for construction of human occupied structures or safe access.

1418

1419 **16D.03.13 Development Authorization – Review Procedure**

1420 Upon submittal and acceptance of a completed development authorization application, the
1421 Administrative Official shall process and review the application as follows, except that permits
1422 or reviews required for critical areas under chapter 16D.05 (Flood Hazard) shall be processed
1423 using the permit development standards, approval criteria and other provisions established in
1424 chapter 16D.05.

1425 1) Development authorizations shall be processed consistent with review procedures provided
1426 in YCC Title 16B (Project Permit Administration), and with any specific processes
1427 requirements provided in 16D.03.19 through 16D.03.26 (specific permit descriptions),
1428 including but not limited to:

- 1429 a) submittals;
- 1430 b) completeness review;
- 1431 c) notices;
- 1432 d) hearings;
- 1433 e) decisions; and,
- 1434 f) appeals.

1435 2) Development authorizations shall be reviewed for conformance with the applicable
1436 development standards provided in 16D.03.27 (General Critical Areas Protection Measures),
1437 and in chapters 16D.06 through 16D.10, except that:

- 1438 a) Forest practices under a state or federal approval lying within Shoreline jurisdiction,
1439 which meet the standards of 16D.06.24(1) (Forest Practices), shall be deemed to be
1440 meeting acceptable critical areas protection measures and are only subject to the
1441 development standards of 16D.10 (Shorelines), when applicable;
- 1442 b) For rangeland livestock grazing operations, both inside and outside Shoreline jurisdiction,
1443 the Administrative Official may waive compliance with development standards in
1444 Chapter 16D.06 (Fish and Wildlife Habitat and the Stream Corridor), 16D.07 (wetlands),
1445 16D.08 (Geologically Hazardous Areas), and 16D.09 (CARA), but not for Chapter
1446 16D.10 (Shorelines) or those uses and activities listed in section 16D.06.10 (Prohibited
1447 Uses). To qualify for this provision, a Resource Management Plan must be provided that
1448 has been prepared using all applicable US Department of Agriculture - National Resource
1449 Conservation Service best management practices designed to protect streams, wetlands,
1450 vegetative buffers, erosion hazards, and floodplains from grazing operations. An
1451 acceptable Resource Management Plan is deemed to consist of acceptable critical areas
1452 protection measures capable of dealing with impacts of grazing activities dispersed across
1453 large areas. This provision is not intended to apply to pasture grazing, hobby farms, or
1454 confinement feeding operations.

1455 3) Decisions on a development authorization shall be consistent with section 16D.03.14
1456 (Authorization Decisions – Basis for Action), 16D.03.15 (Conditional Approval of
1457 Development Authorization) and with any specific decision criteria provided under the
1458 sections for each relevant permit type, as provided in 16D.03.19 through 16D.03.26 (specific
1459 permit descriptions).

1460 4) In addition to the review procedures of YCC Title 16B, the following additional procedures
1461 shall apply to development authorizations within Shoreline jurisdiction:

- 1462 a) The public comment period for Shoreline permits shall conform to WAC 173-27-110 (30
1463 days), except that the public comment period for limited utility extensions and shoreline

- 1464 stabilization measures for bulkheads to protect a single family residence and its
 1465 appurtenant structures shall conform to WAC 173-27-120 (20 days);
- 1466 b) For limited utility extensions and bulkheads for a single family residence, the time for the
 1467 County to issue a decision shall conform to WAC 173-27-120 (21 days from the last day
 1468 of the comment period);
- 1469 c) The effective date of a Shoreline permit shall conform to WAC 173-27-90 (the later of
 1470 the permit date, or the date of final action on subsequent appeals of the Shoreline permit,
 1471 unless the applicant notifies the Department of delays in other necessary construction
 1472 permits);
- 1473 d) The expiration dates for a shoreline permit regarding start of construction and
 1474 completion, and the extension of deadlines for those dates shall conform with WAC 173-
 1475 27-090 (start construction within 2 years, complete construction within 5 years, 1 year
 1476 extensions of those dates, and allowance for the administrative official to set alternative
 1477 permit expiration dates with a showing of good cause).
- 1478 e) For limited utility extensions and bulkheads for single family residences, the time for the
 1479 County to complete any local appeal shall conform to WAC 173-27-120 (30 days);
- 1480 f) The Department shall send its decision and the application materials to the Department of
 1481 Ecology after the local decision and any local appeal procedures have been completed in
 1482 conformance with WAC 173-27-130;
- 1483 g) For Substantial Development permits, the Department of Ecology will file the permit
 1484 without additional action according to WAC 173-27-130;
- 1485 h) For Conditional Use and Variance permits, the Department of Ecology will follow WAC
 1486 173-27-130 and WAC 173-27-200 (issue a decision within 30 days of the date of filing);
- 1487 i) The appeal period of a Department of Ecology action to the Shoreline Hearings Board
 1488 will follow WAC 173-27-190 (21 days from the date of filing for a Substantial
 1489 Development permit, or issuing a decision on a Conditional Use or Variance permit);
- 1490 j) The Shorelines Hearings Board will follow the rules governing that body (RCW 90.58).

1491
 1492 **16D.03.14 Authorization Decisions – Basis for Action**

1493 The action on any development authorization under this title shall be based upon the following
 1494 criteria:

- 1495 1) Impact of the project to critical area features on the property or on abutting or adjacent
 1496 properties, and to Shoreline values and ecological functions;
- 1497 2) Danger to life and property that would likely occur as a result of the project;
- 1498 3) Compatibility of the project with the critical area features on, adjacent to, or near the
 1499 property;
- 1500 4) Conformance with the applicable development standards in this title;
- 1501 5) Requirements of other applicable local, state or federal permits or authorizations, including
 1502 compliance with flood hazard mitigation requirements of Chapters 16D.05.20 through
 1503 16D.05.72;
- 1504 6) Adequacy of the information provided by the applicant or available to the department;
- 1505 7) Ability of the project to satisfy the purpose and intent of this title;
- 1506 8) Based upon the project evaluation, the decision maker shall take one of the following actions:
- 1507 a) Grant the development authorization;

- 1508 b) Grant the development authorization with conditions, as provided in 16D.03.15
1509 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or
1510 adjacent to the project site;
1511 c) Deny the development authorization.
1512 9) The decision by the Administrative Official on the development authorization shall include
1513 written findings and conclusions stating the reasons upon which the decision is based.
1514

1515 **16D.03.15 Conditional Approval of Development Authorization**

1516 In granting any development authorization, the decision maker may impose conditions to:

- 1517 1) Accomplish the purpose and intent of this title;
1518 2) Eliminate or mitigate any identified specific or general negative impacts of the project on the
1519 critical area, and on Shoreline ecological functions;
1520 3) Restore important resource features that have been degraded or lost because of past or
1521 present activities on the project site;
1522 4) Protect designated critical areas and Shoreline jurisdiction, from damaging and incompatible
1523 development;
1524 5) Ensure compliance with specific development standards in this title.
1525

1526 **16D.03.16 Fees and Charges**

1527 The board of county commissioners establishes the schedule of fees and charges listed in Yakima
1528 County Code, Title 20 (Yakima County Fee Schedule), for development authorizations,
1529 variances, appeals and other matters pertaining to this title.
1530

1531 **Critical Areas Reports**

1532
1533 **16D.03.17 Critical Areas Report Requirements**

- 1534 1) The Administrative Official may require a critical areas report, paid for by the applicant in
1535 accordance with YCC Title 16B.04, where determined necessary through the critical area
1536 identification form, technical assistance conference, site investigation, or other portion of the
1537 project review.
1538 2) A qualified professional, as defined by this title, shall prepare the report utilizing best
1539 available science. The intent of these provisions is to require a reasonable level of technical
1540 study and analysis sufficient to protect critical areas. The analysis shall be commensurate
1541 with the value or sensitivity of a particular critical area and relative to the scale and potential
1542 impacts of the proposed activity.
1543 3) The critical area report shall:
1544 a) Demonstrate that the submitted proposal is consistent with the purposes and specific
1545 standards of this title;
1546 b) Describe all relevant aspects of the development proposal; all critical areas adversely
1547 affected by the proposal including any geologic or flood hazards; all risks to critical
1548 areas, the site, and other public and private properties and facilities resulting from the
1549 proposal; and assess impacts on the critical area from activities and uses proposed; and
1550 c) Identify proposed mitigation and protective measures as required by this title.
1551 4) The critical areas report shall include information to address the Supplemental Report
1552 Requirements for Specific Critical Areas (16D.03.18).

- 1553 5) The Administrative Official shall review the critical areas report for completeness and
1554 accuracy, and shall consider the recommendations and conclusions of the critical areas report
1555 to assist in making decisions on development authorizations and to resolve issues concerning
1556 critical areas jurisdiction, appropriate mitigation, and protective measures.
- 1557 6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be
1558 demonstrated to the satisfaction of the Administrative Official that the previously prepared
1559 report is adequate for current analysis. Future land use applications may require preparation
1560 of new, amended, or supplemental critical area assessment reports. Reports prepared for
1561 nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if
1562 relevant to the current analysis and meeting the above standards. The Administrative Official
1563 may also require the preparation of a new critical area assessment report or a supplemental
1564 report when new information is found demonstrating that the initial assessment is in error. If
1565 the Administrative Official requires more information in the report, he/she shall make the
1566 request in writing to the applicant stating what additional information is needed and why.
- 1567 7) The Administrative Official may reject or request revision of the critical areas report when
1568 the Administrative Official can demonstrate that the assessment is incomplete, or does not
1569 fully address the critical areas impacts involved.
- 1570 8) To avoid duplication, the reporting requirements of this chapter shall be coordinated if more
1571 than one critical area report is required for a site or development proposal.
- 1572 9) Applicants should provide reports and maps to the County in an electronic format that allows
1573 site data to be incorporated into the County critical areas database, provided that the County
1574 may waive this requirement for single-family developments. Applicants are encouraged to
1575 coordinate with the Administrative Official regarding electronic submittal guidelines. This
1576 requirement shall not be construed as a requirement to use specific computer software.
- 1577 10) At a minimum, a critical areas report shall include the following information:
- 1578 a) A site plan showing the proposed development footprint and clearing limits, and all
1579 relevant critical areas and buffers within and abutting the site, including but not limited to
1580 effects related to clearing, grading, noise, light/glare, modification of surface or
1581 subsurface flow, drilling, damming, draining, creating impervious surface, managing
1582 stormwater, releasing hazardous materials, and other alterations. Projects in frequently
1583 flooded areas must comply with the requirements of section 16D.05.20 through
1584 16D.05.72. For projects on or adjacent to geologically hazardous areas or areas subject
1585 to high floodwater depth or velocity the report shall identify the type of hazard and assess
1586 the associated risks posed by the development to critical areas, the site, and other public
1587 and private properties and facilities that are the result from the proposal, and assess
1588 impacts on the critical area from activities and uses proposed;
- 1589 b) A written description of the critical areas and buffers on or abutting the site, including
1590 their size, type, classification or rating, condition, disturbance history, and functions and
1591 values. For projects on or adjacent to geologically hazardous areas or areas subject to
1592 high floodwater depth or velocity the description shall identify the type and
1593 characteristics of the hazard;
- 1594 c) An analysis of potential adverse critical area impacts associated with the proposed
1595 activity. For geologically hazard areas, also assess the risks posed by the development to
1596 critical areas, the site, and other public and private properties and facilities that are the
1597 result from the proposal, and assess impacts on the critical area from activities and uses
1598 proposed;

- 1599 d) An explanation of how critical area impacts or risks will be avoided and/or minimized,
1600 how proposed mitigation measures will prevent or minimize hazards, why the proposed
1601 activity requires a location on or access across a critical area, the on-site design
1602 alternatives, and why alternatives are not feasible.
- 1603 e) When impacts cannot be avoided, the report shall include a plan describing mitigation to
1604 replace critical area functions and values altered as a result of the proposal, or to reduce
1605 flood or geologic hazards to critical areas, the site, and other public and private
1606 properties. For projects on or adjacent to geologically hazardous areas or areas subject to
1607 high floodwater depth or velocity the plan shall address mitigation for impacts to critical
1608 areas, the site, and other public and private properties and facilities that are the result
1609 from the proposal, and assess impacts on the critical area from activities and uses
1610 proposed;
- 1611 f) The dates, names, and qualifications of the persons preparing the report and
1612 documentation of analysis methods including any fieldwork performed on the site; and
- 1613 g) Additional reasonable information requested by the Administrative Official for the
1614 assessment of critical areas impacts or otherwise required by the subsequent articles of
1615 this title.
- 1616 11) A critical area report may be supplemented by or composed, in whole or in part, of any
1617 reports or studies required by other laws and regulations or previously prepared for and
1618 applicable to the development proposal site, as approved by the Administrative Official.
- 1619 12) The Administrative Official may limit the required geographic area of the critical area report
1620 as appropriate.
- 1621 13) Compensatory Mitigation Plans - When compensatory mitigation, as described in section
1622 16D.03.10 (Mitigation Requirements) is required or proposed for wetland areas or stream
1623 channels, the applicant shall submit for approval by Yakima County a mitigation plan as part
1624 of the critical area report, which includes:
- 1625 a) Environmental Goals and Objectives. The mitigation plan shall include a written report
1626 identifying environmental goals and objectives of the proposed compensation including:
1627 i. a description of the anticipated impacts to the critical areas, mitigating actions
1628 proposed, and the purposes of the compensation measures, including the site selection
1629 criteria, identification of compensation goals and objectives, identification of desired
1630 resource functions, dates for beginning and completion of site compensation
1631 construction activities, and an analysis of the likelihood of success of the
1632 compensation project. The goals and objectives shall be related to the functions and
1633 values of the impacted critical area.
- 1634 b) A review of the best available science supporting the proposed mitigation;
- 1635 c) A description of the report author's experience to date in restoring or creating the type of
1636 critical area proposed;
- 1637 d) Performance Standards. The mitigation plan shall include measurable specific criteria for
1638 evaluating whether or not the goals and objectives of the mitigation project have been
1639 successfully attained;
- 1640 e) Detailed Construction Documents. The mitigation documents shall include written
1641 specifications and plans describing the mitigation proposed, such as:
1642 i) The proposed construction sequence, timing, and duration;
1643 ii) Grading and excavation details;
1644 iii) Erosion and sediment control features;

- 1645 iv) A planting plan specifying plant species, quantities, locations, size, spacing, and
1646 density, and;
- 1647 v) Measures to protect and maintain plants until established, and;
- 1648 vi) Documents should include scale drawings showing necessary information to convey
1649 both existing and proposed topographic data, slope, elevations, plants and project
1650 limits.
- 1651 f) Monitoring Program. The mitigation plan shall include a program for monitoring
1652 construction of the compensation project and for assessing a completed project. A
1653 protocol shall be included outlining the schedule for site monitoring (for example,
1654 monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the
1655 monitoring data will be evaluated to determine if the performance standards are being
1656 met. A monitoring report shall be submitted as needed to document milestones,
1657 successes, problems, and contingency actions of the compensation project. The
1658 compensation project shall be monitored for a period necessary to establish that
1659 performance standards have been met, but not for a period less than five (5) years.
- 1660 g) Contingency Plan. The mitigation plan shall include identification of potential courses of
1661 action, and any corrective measures to be taken if monitoring or evaluation indicates
1662 project performance standards are not being met.
- 1663 h) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary,
1664 to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring
1665 fulfillment of the compensation project, monitoring program, and any contingency
1666 measures shall be posted in accordance with section 16D.03.27(1) (Financial
1667 Guarantees).
- 1668 14) Innovative Mitigation.
- 1669 a) Yakima County encourages innovative mitigation projects that are based on the best
1670 available science. The mitigation plan shall be used to satisfy the requirements of this
1671 chapter and provide relief and/or deviation as appropriate from the specific standards and
1672 requirements thereof. Advance mitigation or mitigation banking are examples of
1673 alternative mitigation projects allowed under the provisions of this Section wherein one
1674 or more applicants, or an organization with demonstrated capability, may undertake a
1675 mitigation project together if it is demonstrated that all of the following circumstances
1676 exist:
- 1677 i) Creation or enhancement of a larger system of critical areas and open space is
1678 preferable to the preservation of many individual habitat areas;
- 1679 ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
- 1680 iii) The group demonstrates that long-term management of the habitat area will be
1681 provided;
- 1682 iv) There is a clear potential for success of the proposed mitigation at the identified
1683 mitigation site;
- 1684 v) There is a clear likelihood for success of the proposed plan based on supporting
1685 scientific information and demonstrated experience in implementing similar plans;
- 1686 vi) The proposed project results in equal or greater protection and conservation of critical
1687 areas than would be achieved using parcel-by parcel regulations and/or traditional
1688 mitigation approaches;
- 1689 vii) The plan is consistent with the general purpose and intent of this chapter;

- 1690 viii) The plan shall contain relevant management strategies considered effective and
- 1691 within the scope of this chapter and shall document when, where, and how such
- 1692 strategies substitute for compliance with the specific standards herein; and
- 1693 ix) The plan shall contain clear and measurable standards for achieving compliance with
- 1694 the purposes of this chapter, a description of how such standards will be monitored
- 1695 and measured over the life of the plan, and a fully funded contingency plan if any
- 1696 element of the plan does not meet standards for compliance.
- 1697 b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the
- 1698 required wetland replacement ratios.
- 1699 c) Projects that propose compensatory wetland mitigation shall also use the standards in
- 1700 sections 16D.07.05 (Compensatory Mitigation Requirements). For those situations where
- 1701 a mitigation bank may provide an opportunity for mitigation, then the requirements in
- 1702 section 16D.07.06 (Wetland Mitigation Banks) shall apply.
- 1703

1704 **16D.03.18 Supplemental Report Requirements for Specific Critical Areas**

- 1705 1) **Stream Corridors.** When a critical areas report is required for a stream corridor or
- 1706 hydrologically related critical area, it shall include the following:
- 1707 a) A habitat and native vegetation conservation strategy that addresses methods to protect
- 1708 and enhance the functional properties listed in section 16D.06.05 (Functional Properties);
- 1709 b) Where there is evidence that proposed construction lies within an immediate zone of
- 1710 potential channel migration, representing a future hazard to the construction, a hydrologic
- 1711 analysis report may be required. The report shall assume the conditions of the one-
- 1712 hundred-year flood, include on-site investigative findings, and consider historical
- 1713 meander characteristics in addition to other pertinent facts and data.
- 1714 2) **Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat and
- 1715 Habitats of Local Importance, it shall include the following:
- 1716 a) **Habitat Assessment:** A habitat assessment is an investigation of the project area to
- 1717 evaluate the presence or absence of such species, and areas with which such species have
- 1718 a primary association. The presence or absence assessment shall incorporate the time
- 1719 sensitive nature of species use. The landowner may submit an assessment prepared by the
- 1720 state or federal agency with jurisdiction over the species. This assessment is time sensitive
- 1721 and the assessment must be completed no more than 36 months prior to the date the critical
- 1722 areas application is deemed complete.
- 1723 b) If the habitat assessment determines that such habitat area is present on site, a
- 1724 management plan is required that follows published federal, or state, management
- 1725 recommendations. The Administrative Official shall confer with the appropriate agency
- 1726 and consider their comments through the review process.
- 1727 3) **Wetlands** When a critical areas report is required for Wetlands, it shall include the
- 1728 following:
- 1729 a) The exact location of a wetland's boundary and wetland rating shall be determined
- 1730 through the performance of a field investigation by a qualified wetland professional
- 1731 applying the *Washington State Wetlands Identification and Delineation Manual* (Ecology
- 1732 Publication #96-94 - <http://www.ecy.wa.gov/pubs/9694.pdf>) as required by RCW
- 1733 36.70A.175 (Wetlands to be delineated in accordance with manual), and the *Washington*
- 1734 *State Wetland Rating System for Eastern Washington* (Ecology Publication # 04-06-15),
- 1735 as amended;

- 1736 b) All delineated wetlands and required buffers within two hundred (200) feet of the project
1737 area shall be depicted on the site plan. For areas off-site of the project site, wetland
1738 conditions within 200 feet of the project boundaries may be estimated using the best
1739 available information. Best available information should include, but not be limited to
1740 aerial photos, land based photos, soils maps, or topographic maps;
- 1741 c) A critical area report for wetlands shall contain an analysis of the wetlands including the
1742 following site- and proposal-related information:
- 1743 i) A statement specifying all assumptions made and relied upon;
 - 1744 ii) Documentation of any fieldwork performed on the site, including field data sheets for
1745 delineations, the wetland rating form, baseline hydrologic data, etc.;
 - 1746 iii) A description of the methodologies used to conduct the wetland delineations, or
1747 impact analyses including references;
 - 1748 iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;
- 1749 d) For projects that will affect the wetland or it's buffer, provide the following:
- 1750 i) A habitat and native vegetation conservation strategy that addresses methods to
1751 protect and enhance on-site habitat and wetland functions and values listed in section
1752 16D.07.04(1) (Wetland Functions and Rating), and section 16D.06.05 (Functional
1753 Properties);
 - 1754 ii) Mitigation sequencing pursuant to section 16D.03.10 (Mitigation Requirements) to
1755 avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of
1756 wetland functions and values. Mitigation ratios may be necessary and should follow
1757 the guidance provided in section 16D.07.05 (Compensatory Mitigation) of the
1758 wetland chapter.
- 1759 4) **Geologically Hazardous Areas** When a critical areas report is required for a Geologically
1760 Hazardous Area, it shall include the following, provided that the Administrative Official may
1761 determine that any portion of these requirements is unnecessary given the scope and/or scale
1762 of the proposed development:
- 1763 a) A description of the site features, including surface and subsurface geology. This may
1764 include surface exploration data such as borings, drill holes, test pits, wells, geologic
1765 reports, and other relevant reports or site investigations that may be useful in making
1766 conclusions or recommendations about the site under investigation;
 - 1767 b) A description of the geologic processes and hazards affecting the property, including a
1768 determination of the actual hazard types for any Suspected and Risk Unknown hazards
1769 identified in the affirmative determination of hazard (16D.08.04);
 - 1770 c) A description of the vulnerability of the site to seismic and other geologic processes and
1771 hazards;
 - 1772 d) A description of any potential hazards that could be created or exacerbated as a result of
1773 site development;
 - 1774 e) For developments in or affecting landslide hazard areas the report shall also include:
 - 1775 i) Assessments and conclusions regarding slope stability including the potential types of
1776 landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip,
1777 etc.) that may affect the site. The stability evaluation shall also consider dynamic
1778 earthquake loading, and shall use a minimum horizontal acceleration as established
1779 by the current version of the YCC Title 13 (Building Code);

- 1780 ii) An analysis of slope recession rate shall be presented in those cases where stability is
1781 impacted or influenced by stream meandering, or other forces acting on the toe of the
1782 slope;
1783 iii) Description of the run-out hazard of landslide debris to the proposed development
1784 that starts up-slope (whether part of the subject property or on a neighboring
1785 property) and/or the impacts of landslide run-out on down-slope properties and
1786 critical areas.

1787 **5) Flood Hazards**

- 1788 a) Prior to authorization of any major construction project within a floodplain which can be
1789 anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the
1790 base flood, an engineering report shall be prepared that establishes any new flood
1791 elevations that would result for the one-hundred-year flood frequency if the project were
1792 implemented.

1793 **6) Geotechnical Analysis for Flood Hazard Reduction and Shore Modification within**
1794 **Shoreline Jurisdiction**

- 1795 a) When a "Geotechnical report" or "geotechnical analysis" is required within Shoreline
1796 jurisdiction, it shall include:
1797 i) a description of the ground and surface hydrology and geology, the affected land form
1798 and its susceptibility to mass wasting, erosion, and other geologic hazards or
1799 processes;
1800 ii) conclusions and recommendations regarding the effect of the proposed development
1801 on geologic conditions, the adequacy of the site to be developed, the impacts of the
1802 proposed development, alternative approaches to the proposed development, and;
1803 iii) measures to mitigate potential site-specific and cumulative geological and
1804 hydrological impacts of the proposed development, including the potential adverse
1805 impacts to adjacent and down-current properties.
1806 b) A geotechnical analysis for structural stabilization measures must demonstrate the
1807 necessity for shore stabilization by estimating time frames and rates of erosion and report
1808 on the urgency associated with the specific situation. As a general matter, hard armoring
1809 solutions should not be authorized except when a report confirms that there is a
1810 significant possibility that such a structure will be damaged within three years as a result
1811 of shore erosion with out such hard armoring measures, or where waiting until the need is
1812 that immediate would foreclose the opportunity to use measures that avoid impacts on
1813 ecological functions. Thus, where the geotechnical report confirms a need to prevent
1814 potential damage to a primary structure, but the need is not as immediate as three years;
1815 the report may still be used to justify more immediate authorization to protect against
1816 erosion using soft measures.
1817 c) A geotechnical analysis for structural flood hazard reduction measures must also
1818 demonstrate, by a scientific and engineering analysis, feasible alternatives to structural
1819 improvements that:
1820 i) Such measures are necessary to protect existing development;
1821 ii) That nonstructural measures are not feasible;
1822 iii) That impacts to ecological functions and priority species and habitats can be
1823 successfully mitigated so as to assure no net loss, and;

- 1824 iv) That appropriate vegetation conservation actions are undertaken consistent with
1825 WAC 173-26-221(5) (General master program provisions - Shoreline vegetation
1826 conservation).
1827

1828 **Permit Review Criteria**

1829 **16D.03.19 Substantial Development Permit**

- 1830 1) **Classification criteria** - Substantial Development permits include any development subject
1831 to RCW Chapter 90.58 (Shoreline Management Act).
1832 2) **Process** - Substantial Development permits shall be processed as a Type II review in
1833 accordance with YCC Title 16B (Project Permit Administration).
1834 3) **Decision Criteria** – Decisions on Substantial Development permits shall be based on the
1835 general decision criteria found in section 16D.03.14 (Authorization Decisions – Basis for
1836 Action).
1837
1838

1839 **16D.03.21 Shoreline Conditional Uses**

- 1840 1) **Classification Criteria** - Shoreline Conditional Uses are those uses within Shoreline
1841 jurisdiction that are identified in section 16D.10.05 (Shoreline Land Use table) as
1842 Conditional Uses, and that are usually seen as uses that either do not need a shoreline
1843 location are considered not to be suitable for siting in shoreline locations, or have impacts
1844 that need closer scrutiny. It is understood, however, that there may be special circumstances
1845 or a special type or style of conditional use that would make shoreline siting of special cases
1846 acceptable to the goals, policies and intentions of the Master Program. The purpose of a
1847 conditional use permit is to provide a system which allows flexibility in the application of
1848 use regulations in a manner consistent with the policies of RCW 90.58.020 (Legislative
1849 findings). In authorizing a conditional use, special conditions may be attached to the permit
1850 by Yakima County or the Department of Ecology to prevent undesirable effects of the
1851 proposed use and/or to assure consistency of the project with the act and the master program.
1852 2) **Process** – All applications for a conditional use shall be processed as a Type II review in
1853 accordance with YCC Title 16B (Project Permit Administration).
1854 3) **Decision Criteria** - The decision on a conditional use shall be based upon the criteria
1855 established in Section 16D.03.14 (Authorization Decisions – Basis for Action) together with
1856 the criteria established below. The burden of proving that the project is consistent with the
1857 applicable criteria shall be upon the applicant, who must supply evidence or information
1858 demonstrating to the satisfaction of the Administrative Official that all of the following
1859 criteria will be met.
1860 a) Failure to satisfy any one of the criteria below shall result in denial of the conditional use.
1861 i) That the proposed use will be consistent with the policies of RCW 90.58.020
1862 (Legislative findings).
1863 ii) That the proposed use will not interfere with the normal public use of public
1864 shorelines.
1865 iii) That the proposed use of the site and design of the project will be compatible with
1866 other permitted uses within the area.
1867 iv) That the proposed use will cause no significant adverse effects to the shoreline
1868 environment designation in which it is located.
1869 v) That the public interest suffers no substantial detrimental effect.

1870 b) Consideration shall be given to the cumulative impact of additional requests for like
1871 actions in the area. For example, if conditional use permits were granted for other
1872 developments in the area where similar circumstances exist, the total of the conditional
1873 uses shall also remain consistent with the policies of RCW 90.58.020 (Legislative
1874 findings) and shall not produce substantial adverse effects to the shoreline environment.
1875

1876 **16D.03.22 Variance**

- 1877 1) **Classification Criteria** - A Variance may be used within Shoreline jurisdiction to grant
1878 relief from specific bulk, dimensional or performance standards where there are
1879 extraordinary circumstances relating to the physical character or configuration of property
1880 such that the strict implementation of the standards will impose unnecessary hardships on the
1881 applicant or thwart the policies set forth in RCW 90.58.020 (Legislative findings). Shoreline
1882 variances from the use regulations of the master program are prohibited.
- 1883 2) **Process** – Requests for a Variance permit shall be processed as a Type II review in
1884 accordance with YCC Title 16B (Project Permit Administration). Each request for a
1885 Variance shall be considered separately and prior to any decision on an application for
1886 development authorization. Any decision to approve or conditionally approve the
1887 development authorization will include and specifically cite only those variances approved
1888 for inclusion with the project.
- 1889 3) **Decision Criteria** - The decision on a Variance shall be based upon the criteria established in
1890 Section 16D.03.14 (Authorization Decisions – Basis for Action) together with the criteria
1891 established below. Variance requests shall cite the specific standard or condition from which
1892 relief is requested and be accompanied by the evidence necessary to demonstrate the variance
1893 is in conformance with all of the criteria below. Failure to satisfy any one of the criteria shall
1894 result in denial of the variance.
- 1895 a) **Special Conditions.** There is a hardship identified in (b) below, that is specifically related
1896 to a unique natural or physical condition associated with the project site, such as irregular
1897 lot shape, size, or natural features, which is not the result of a deed restriction, a lack of
1898 knowledge of requirements involved when the property was acquired, or other actions
1899 resulting from the proponent's own actions;
- 1900 b) **Unnecessary Hardship.** The strict application of a standard would deprive the proponent
1901 of a reasonable use of the land or rights commonly enjoyed by other properties in the
1902 same area. That greater profit would result if a variance were granted is not evidence of a
1903 hardship;
- 1904 c) **General Compatibility.** The project is generally compatible with other permitted or
1905 authorized uses in the immediate project area and with uses planned for the area under
1906 the comprehensive plan and/or the Shoreline Master Program and granting the variance
1907 will not cause adverse effects to abutting and adjacent properties or the critical area;
- 1908 d) **Special Privilege.** The requested variance would not constitute a grant of special privilege
1909 not enjoyed by other abutting and adjacent properties and the variance is the minimum
1910 necessary to afford the requested relief;
- 1911 e) **Public Interest.** The requested variance will not endanger the public safety or health and
1912 that the public interest will not be compromised;
- 1913 f) **Cumulative Impact.** In the granting of any variance, consideration shall be given to the
1914 cumulative impact of additional requests for like actions in the area. For example, if other
1915 variances were to be granted in the area where similar circumstances exist, the total

1916 cumulative effect of the variances shall also remain consistent with the policies of this
1917 chapter and shall not produce substantial adverse impacts to the designated critical area;
1918 g) That the public rights of navigation and use of the shorelines will not be adversely
1919 affected.

1920
1921 **16D.03.24 Reasonable Use Exception**

- 1922 1) **Classification Criteria** - If the application of this title would deny all reasonable economic
1923 use of the subject property, the property owner may apply for a Reasonable Use Exception
1924 pursuant to this Section.
- 1925 2) **Process** - A Reasonable Use Exception shall be processed as a Type III review with a public
1926 hearing in accordance with YCC Title 16B.03 (Classification by Project Permit Type).
1927 Within Shoreline jurisdiction, the project shall be reviewed in the same manner as a
1928 Conditional Use permit (16D.03.21), except that the review shall be elevated to a Type III
1929 review as allowed by YCC Title 16B.03.
- 1930 3) **Decision Criteria** - Decisions on the Reasonable Use request shall be based on the general
1931 decision criteria found in section 16D.03.14 (Authorization Decisions – Basis for Action),
1932 together with the criteria below. The Reasonable Use request shall be accompanied by the
1933 evidence necessary to demonstrate conformance with the criteria below. Failure to satisfy
1934 any one of the criteria shall result in denial of the request. The burden of proof shall be on
1935 the applicant to bring forth evidence in support of the application and to provide sufficient
1936 information on which any decision has to be made on the application.
- 1937 a) The application of this title would deny all reasonable use of the property; provided that
1938 the inability of the applicant to derive reasonable use of the property is not the result of
1939 actions by the applicant;
- 1940 b) No other reasonable use of the property has less impact on the critical area;
- 1941 c) Any alteration is the minimum necessary to allow for reasonable use of the property.

1942
1943 **16D.03.25 Minor Revisions to Approved Uses or Developments**

- 1944 1) **Classification Criteria** – Minor revisions to a project that has been approved under a permit
1945 are allowed in certain circumstances.
- 1946 a) Changes that are not substantive are not required to obtain a revision and may be allowed
1947 as activities to implement the original permit. Examples of such include minor changes
1948 in facility orientation or location, minor changes in structural design that does not change
1949 the height or increase ground floor area, and minor accessory structures (such as
1950 equipment covers or small sheds near the main structure, etc.).
- 1951 b) Substantive changes are those that materially alter the project in a manner that relates to
1952 its conformance with the permit requirements, or with the Shoreline Master Program.
1953 Such changes may be approved as a minor revision, if the Administrative Official
1954 determines that the proposed revision and all previous revisions are within the scope and
1955 intent of the original permit, and meet the criteria listed below. Changes not able to meet
1956 the criteria must obtain a new permit.
- 1957 c) No additional over water construction will be involved, except that pier, dock, or float
1958 construction may be increased by five hundred square feet or ten percent from the
1959 provisions of the original permit, whichever is less;
- 1960 d) Lot coverage and height may be increased a maximum of ten percent from the provisions
1961 of the original permit: PROVIDED, that revisions involving new structures not shown on

- 1962 the original site plan shall require a new permit, and: PROVIDED FURTHER, that any
 1963 revisions authorized under this subsection shall not exceed height, lot coverage, setback
 1964 or any other requirements of these regulations;
- 1965 e) Landscaping may be added to a project without necessitating an application for a new
 1966 permit: PROVIDED, that the landscaping is consistent with conditions (if any) attached
 1967 to the original permit and is consistent with the this title for the area in which the project
 1968 is located;
 - 1969 f) The use authorized pursuant to the original permit is not changed;
 - 1970 g) No additional significant adverse environmental impact will be caused by the project
 1971 revision.
- 1972 2) **Process** – Minor revisions to existing permits shall be processed as a Type I review, as
 1973 provided under YCC Title 16B (Project Permit Administration). Parties of record to the
 1974 original permit shall be notified of the revision, though a comment period is not required. A
 1975 revision for a project within Shoreline jurisdiction shall follow state filing, appeal and
 1976 approval standards as provided in WAC 173-27-100 (Revisions to Permits).
- 1977 3) **Decision Criteria** - Decisions on permit revisions shall be based on the general decision
 1978 criteria found in section 16D.03.14 (Authorization Decisions – Basis for Action).
 1979

1980 **16D.03.26 Non-Conforming Uses and Facilities**

1981 Non-conforming uses and facilities are classified as either conforming uses with non-conforming
 1982 structures or areas, or as non-conforming uses, as described in subsection 1 below. Both types
 1983 have different review processes and decision criteria, as provided below in subsections 2 and 3.

- 1984 1) **Classification Criteria** – There may be situations that do not conform to the standards or
 1985 regulations of this title. These situations are characterized as:
- 1986 a) **Non-conforming uses.** Uses of a structure or land that were lawfully established at the
 1987 time of their initiation but are currently prohibited by this title are non-conforming uses,
 1988 and may utilize structures or land areas that are also non-conforming. A non-conforming
 1989 use that is discontinued for any reason for more than one year shall have a presumption of
 1990 intent to abandon, shall not be re-established, and shall lose its non-conforming status,
 1991 unless a Variance is obtained to extend the length of time, based on documentation
 1992 showing that an intent to abandon did not exist during the period of discontinuance. Such
 1993 a Variance request may be submitted after the deadline has passed. In the case of
 1994 destruction or damage where reconstruction costs exceed 50% of the assessed value, the
 1995 structure shall not be rebuilt.
 - 1996 b) **Conforming Uses with Non-conforming Structures or Areas** are structures or areas for
 1997 conforming uses that were lawfully established at the time of their initiation, but currently
 1998 do not conform to the bulk, dimensional or other development standards of this title.
 1999 Structures or areas in locations approved under a permit shall not be considered non-
 2000 conforming. Non-conforming outdoor areas that have not been used or maintained for 5
 2001 consecutive years shall lose their non-conforming status and may not be reestablished.
 - 2002 c) Any non-conforming structure, area, or use may be maintained with ordinary care
 2003 according to the provisions in 16D.01.05 (Applicability) and 16D.03.05 (Minor Activities
 2004 Allowed without a Permit or Exemption) and 16D.03.06 (Exemptions – Procedural
 2005 Requirements), and do not require additional review under these Non-Conforming
 2006 provisions.
- 2007 2) **Process**

- 2008 a) Alterations to conforming uses with non-conforming structures or areas shall be allowed
2009 under the following process requirements with the understanding that other permits or
2010 reviews may also be required under this title:
- 2011 i) Those that do not increase the existing non-conformity and otherwise conform to all
2012 other provisions of this title are allowed without additional review under these non-
2013 conforming provisions;
 - 2014 ii) Those that increase the non-conformity, including establishing additional square
2015 footage within a buffer, are allowed without additional review under these non-
2016 conforming provisions; however, a Variance must be obtained for the increased non-
2017 conformity;
 - 2018 iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value
2019 shall be processed as provided in subsections i) and ii) above.
 - 2020 iv) A nonconforming structure which is moved any distance shall be processed as
2021 provided in subsections 1 and 2 above.
 - 2022 v) Reconstruction or repair of structures destroyed or damaged 75% or more of the
2023 assessed value of the structure (not the whole property), including that resulting from
2024 neglect of maintenance or repair, shall be processed under these non-conforming
2025 provisions as a Type II review under YCC Title 16B (Project Permit Administration).
- 2026 b) **Alterations to Non-Conforming Uses**
- 2027 i) Those involving expansion or alteration within an existing structure, but do not
2028 include alterations to outdoor areas, or expansions of the building's height or square
2029 footage are allowed without additional review under these non-conforming
2030 provisions.
 - 2031 ii) Alterations to non-conforming uses, including their non-conforming structures or
2032 areas that do not qualify under paragraph i) above, shall be processed under these
2033 non-conforming provisions as a Type II review, as provided under YCC Title 16B
2034 (Project Permit Administration).
 - 2035 iii) Within Shoreline jurisdiction, and only within the Urban and Rural Shoreline
2036 Environments, a non-conforming use as listed in section 16D.10.05 (Shoreline Land
2037 Use Table) may convert to another non-conforming use; although, a non-conforming
2038 use shall not change to any use prohibited in section 16D.06.10 (Prohibited Uses).
2039 Conversion from one non-conforming use to another within the Urban and Rural
2040 Shoreline environments shall be processed under these non-conforming provisions as
2041 a Type II review, as provided under YCC Title 16B.
- 2042 3) **Decision Criteria**
- 2043 a) Decisions on projects that require review under the non-conforming provisions, as
2044 identified under subsection (2) above shall be based on the general decision criteria found
2045 in section 16D.03.14 (Authorization Decisions – Basis for Action) together with the
2046 criteria below.
 - 2047 b) Applications for conforming uses with non-conforming structures or areas that are
2048 subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that
2049 the project meets all of the following criteria:
 - 2050 i) Using the original location will not place the structure or people in danger of a
2051 hazard;
 - 2052 ii) The previous structure and any structural shore modification used to protect the
2053 structure did not increase hazards or damage to other properties;

- 2054 iii) The previous structure and any shore modification used to protect the structure did
2055 not cause significant impacts to the functions and values of the critical area.
2056 c) **Decisions on non-conforming uses:**
2057 i) A non-conforming use may not be altered or expanded in any manner that would
2058 bring that use into greater non-conformity;
2059 ii) Within Shoreline jurisdiction, Non-conforming uses shall meet the decision criteria
2060 for Conditional Use permits in section 16D.03.21(3) (Shoreline Conditional Uses);
2061 iii) Within Shoreline jurisdiction, and only within the Urban and Rural Shoreline
2062 Environments, conversion from one non-conforming use to another may be approved
2063 if the replacement use is more conforming with the intent of the applicable Shoreline
2064 Environment Policies of *Plan 2015* (Policies NS.7.05 through NS.7.22), and if the
2065 impacts to the shoreline environment from the existing use are reduced by changing
2066 the use.
2067

2068 **16D.03.27 General Critical Areas Protective Measures**

2069 The standards below apply to all permits and reviews performed under this title.

- 2070 1) Financial guarantees to ensure mitigation, maintenance, and monitoring.
2071 a) When mitigation required pursuant to a development proposal is not completed prior to
2072 the Yakima County’s final permit approval, such as final plat approval or final building
2073 inspection, the Administrative Official may require the applicant to post a financial
2074 guarantee to ensure that the work will be completed. If the development proposal is
2075 subject to compensatory mitigation for wetlands and streams, the applicant must post a
2076 financial guarantee to ensure mitigation is fully functional. Where financial guarantees
2077 are required by other state or federal agencies for specific mitigation features, additional
2078 financial guarantees for those features are not required under this provision.
2079 b) The financial guarantee shall be in the amount of one hundred and twenty-five percent
2080 (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of
2081 restoring the functions and values of the critical area that are at risk.
2082 c) The financial guarantee may be in the form of a surety bond, performance bond,
2083 assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable
2084 financial institution, or other form acceptable to the Administrative Official, with terms
2085 and conditions acceptable to the Yakima County attorney.
2086 d) The financial guarantee shall remain in effect until the Administrative Official
2087 determines, in writing, that the standards bonded for have been met. Financial guarantees
2088 for wetland or stream compensatory mitigation shall be held for a minimum of five (5)
2089 years after completion of the work to ensure that the required mitigation has been fully
2090 implemented and demonstrated to function, and may be held for longer periods when
2091 necessary.
2092 e) Public development proposals shall be relieved from having to comply with the bonding
2093 requirements of this Section if public funds have previously been committed for
2094 mitigation, maintenance, monitoring, or restoration.
2095 f) Any failure to satisfy critical area requirements established by law or condition, including
2096 but not limited to the failure to provide a monitoring report within thirty (30) days after it
2097 is due or comply with other provisions of an approved mitigation plan, shall constitute a
2098 default, and the Administrative Official may demand payment of any financial guarantees
2099 or require other action authorized by the Yakima County code or any other law.

- 2100 g) Any funds recovered pursuant to this Section shall be used to complete the required
- 2101 mitigation. Such funds shall not be deposited in the County General Fund, but rather
- 2102 provided with a separate account. The County will use such funds to arrange for
- 2103 completion of the project or mitigation, and follow-up corrective actions.
- 2104 h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation
- 2105 of an applicant or violator to complete required mitigation, maintenance, monitoring, or
- 2106 restoration.

2107 2) Declarative Covenants

- 2108 a) When a development is authorized by a critical areas permit or review, a declarative
- 2109 covenant shall, unless determined not to be necessary by the Administrative Official, be
- 2110 filed with the Yakima County Auditor to inform future owners of the existence of a
- 2111 critical areas decision that runs with the land and contains limits relating to critical areas
- 2112 on the property. The declarative covenant shall read substantially as follows:

2113
 2114 “This declarative covenant is intended to reduce the incidence of unintentional

2115 violation of the Critical Areas Ordinance and/or Shoreline Master Program.

2116 Please be informed about your property and the laws that apply to it.

2117
 2118 This declarative covenant is provided by Yakima County to the current and future

2119 owners of the property described as [enter property description] to inform them

2120 that, at the time of this notice, [enter Critical Areas or Shorelines present] existed

2121 within or adjacent to the property which are protected and regulated by the

2122 Yakima County Critical Areas Ordinance and/or Shoreline Master Program.

2123 Development has taken place on the property under permit or review number

2124 [enter permit file number], which includes requirements that run with the land.

2125 Current and future owners should obtain copies of the permit and also inform

2126 themselves about the critical areas, and/or Shoreline jurisdiction that exists on the

2127 property.

2128
 2129 This declarative covenant may be removed or modified if critical areas conditions

2130 change, or if the permit is no longer applicable. Contact the Yakima County

2131 Public Services for assistance in doing so.”

- 2132
- 2133 b) The declarative covenant shall not be required for a development proposal by a public
- 2134 agency or public or private utility:
- 2135 i) Within a recorded easement or right-of-way;
- 2136 ii) Where the agency or utility has been adjudicated the right to an easement or right-of-
- 2137 way; or
- 2138 iii) On the site of a permanent public facility.
- 2139 c) The applicant shall submit proof that the declarative covenant has been filed for public
- 2140 record before the Administrative Official approves any development proposal for the
- 2141 property or, in the case of subdivisions, short subdivisions, planned unit developments,
- 2142 and binding site plans, at or before recording.

2143 3) Subdivision Standards - The following standards apply to all permits or reviews under the

2144 Subdivision Ordinance (YCC Title 14) that contain critical areas:

- 2145 a) All subdivisions that contain critical areas shall be eligible for density bonuses or other
2146 development incentives, as provided in the Subdivision Ordinance (YCC Title 14) and
2147 Zoning Ordinances (YCC Titles 15 and 15A);
- 2148 b) Critical areas shall be actively protected through the following:
- 2149 i) Roads and utilities for the subdivision shall avoid critical areas and their buffers, as
2150 much as possible;
- 2151 ii) When Geologically Hazardous Areas (excluding Erosion, Oversteepened Slopes of
2152 Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway,
2153 Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Buffers fall
2154 within the boundary of a subdivision.
- 2155 (1) Said critical areas shall be protected by placing them entirely within a separate
2156 critical area tract, or by including them entirely within one of the developable
2157 parcels. Other options, such as conservation easements and building envelopes
2158 may be deemed by the Administrative Official as meeting this provision when
2159 special circumstances obstruct the viability of this provision;
- 2160 (2) For those new lots that do contain said critical areas, useable building envelopes
2161 (5,000 square feet or more for residential uses) shall be provided on the plat that
2162 lie outside said critical areas.
- 2163 iii) New lots partially within the floodplain shall provide a usable building envelope
2164 (5,000 square feet or more for residential uses) outside the floodplain;
- 2165 iv) New lots entirely within the floodplain shall be at least one (1) acre in area;
- 2166 v) For new lots containing streams, wetlands, and/or vegetative buffers, outdoor use
2167 envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the
2168 plat that lie outside said critical areas;
- 2169 vi) Degraded vegetative buffers shall be restored, or provided with protection measures
2170 that will allow them to recover;
- 2171 vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and
2172 relevant information about them disclosed on the final plat.
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Chapter 16D.04
ENFORCEMENT AND PENALTIES

Sections:

- 16D.04.01 Shoreline Management Act Violations and Penalties
- 16D.04.02 Enforcement Responsibilities Generally
- 16D.04.03 Enforcement Responsibilities – Chapters 16D.05.20 through 16D.05.72
Flood Hazard Permits
- 16D.04.04 Violation – Penalty

16D.04.01 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 (Definitions), 90.58.210 (Civil Penalty – Review), 90.58.220 (General penalty), 90.58.230 (Violators Liable for Damages Resulting From Violation -- Attorney's Fees and Costs), and WAC 173-27-240 (Authority and Purpose), and shall supersede the provisions of Sections 16D.04.02 and 16D.04.04 of this chapter.

16D.04.02 Enforcement Responsibilities Generally

It shall be the duty of the Administrative Official or his designee to enforce the provisions of the Critical Areas Ordinance and Shoreline Master Program pertaining to all development within the jurisdiction of this title, except as expressly noted in Section 16D.04.03 below pertaining to flood hazard permits. Whenever any development is found to be in violation of this title or a development authorization issued pursuant to this title, the Administrative Official or his designee may order any work on such development stopped by serving written notice on any person engaged in the wrongdoing or causing such development to be done. The notice shall be in the form of a "cease and desist" 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 development shall be authorized unless and until compliance with the development authorization conditions and/or terms of this title has been achieved to the satisfaction of the Administrative Official.

**16D.04.03 Enforcement Responsibilities – Chapter 16D.05
Flood Hazard Permits**

It shall be the duty of the Chief Building Official or his designee to enforce the provisions of Chapter 16D.05. 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.

16D.04.04 Penalties

(a) Violation of the provisions of this title or failure to comply with any of its requirements constitutes a misdemeanor and a public nuisance. Any person who violates or fails to comply with any of its requirements shall, upon conviction in a court of competent jurisdiction, be fined not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and

2220 in addition shall pay all costs and expenses involved in the case. Each day such violation
2221 continues shall be considered a separate offense; however, no additional action will be initiated
2222 pending the disposition of any previous suit or complaint.
2223 (b) It shall be the affirmative duty of the county prosecutor's office to seek relief under this
2224 section for violations of this title.
2225 (c) Nothing herein shall prevent the county prosecutor's office from taking such other lawful
2226 action, legal and/or equitable, as is necessary to prevent or remedy any violation.
2227 (d) In addition to any criminal proceedings brought to enforce this title and in addition to any
2228 fine or imprisonment provided for therein, continuing violations of this title may be enjoined or
2229 ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement
2230 actions, such violations are declared to be public nuisances. Any person, firm, or corporation
2231 violating the provisions of this title shall be liable for all costs of such proceedings, including
2232 reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in
2233 addition to any other remedies available at law or equity.

**Chapter 16D.05
FLOOD HAZARD AREAS**

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16D.05.20 FLOOD HAZARD AREAS – GENERAL PROVISIONS

Sections:

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

16D.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 "Flood Insurance Study for the Unincorporated Areas of Yakima County," dated March 2, 1998, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps, and any amendments which may thereafter be made by the Federal Emergency Management Agency, are adopted by reference and declared to be part of Chapters 16D.05.20 through 16D.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.

16D.05.20.030 Principles

- (a) 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 16D.05.20 through 16D.05.72 restrict uses and regulate structures to those that are consistent with the degree of flood hazard.
- (b) In advancing the above principals, the intent of Chapters 16D.05.20 through 16D.05.72 and their application is:
 - (1) To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
 - (2) To meet the minimum requirement of the National Flood Insurance program;
 - (3) To implement state and federal flood protection programs.

16D.05.20.050 Applicability

- The guidelines and regulations set forth herein YCC Title 13 and related International Codes shall apply to all special flood hazard areas within the jurisdiction of Yakima County and shall be utilized when considering the issuance of permits through the administrative of quasi-judicial processes within Yakima County.
- (1) The provisions of Chapters 16D.05.20 through 16D.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 16D.05.20 through 16D.05.72 and other applicable local, state and federal regulations.
 - (3) Topographic, engineering and construction information necessary to evaluate the

2280 proposed project shall be submitted to the department for approval.
2281 (4) The granting of a permit for any development or use shall not constitute a representation,
2282 guarantee or warranty of any kind or nature by Yakima County, or any official or employee
2283 thereof, of the practicality or safety of any structure or use proposed and shall create no liability
2284 upon or cause of action against such public body, official or employee for any damage that may
2285 result thereto.

2286

2287 **16D.05.20.060 Exemptions**

2288 The following uses and activities are exempt from the provisions of Chapters 16D.05.20 through
2289 16D.05.72:

2290 (1) The alteration or substantial improvement of any structure listed on the National Register
2291 of Historic Places or a state inventory of historic places;

2292 (2) The installation and maintenance of aboveground utility transmission lines and poles;

2293 (3) Private driveways, fences and other accessory activities and/or uses necessary for
2294 agricultural uses which the building official determines will not unduly decrease flood storage or
2295 capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by
2296 floodwaters, and will resist flotation and collapse;

2297 (4) Construction and practices normal or necessary for agricultural uses. The construction of
2298 an accessory barn or similar agricultural structure, designed to have a low flood-damage
2299 potential, not involving substantial cutting, filling, or watercourse modification, is subject to
2300 Section 16D.05.28.020(3)(a through e). (Ref. IRC 323)

2301

2302 **16D.05.20.070 Interpretations**

2303 (a) In the interpretation and application of Chapters 16D.05.20 through 16D.05.72, the
2304 provisions shall be considered as minimum requirements, shall be liberally construed in favor of
2305 Yakima County, and deemed neither to limit or repeal any other powers granted under state
2306 statute. Its provisions shall be applied in addition to and as a supplement to provisions of the
2307 Yakima County Codes (YCC), Title 13, Building and Construction, Title 14 Subdivision and
2308 (Title 15 and 15A) Zoning Ordinances, and the Shoreline Master Program. Chapters 16D.05.20
2309 through 16D.05.72 are not intended to repeal, abrogate or impair any existing easements,
2310 covenants, or deed restrictions. However, where these chapters and other ordinances, easements,
2311 covenants or deed restrictions conflict or overlap, whichever imposes the more stringent
2312 requirement shall prevail.

2313 (b) In an interpretation as to an exact location of the boundaries of the special flood hazard areas
2314 (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the
2315 location of the boundary shall be given a reasonable opportunity to appeal the interpretation.
2316 Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and
2317 regulations of the National Flood Insurance Program (44 CFR 59, etc.) (Ref. IBC 104.1).

2318

2319 **16D.05.20.080 Compliance**

2320 No structure or land shall hereafter be used, constructed, located, extended, converted or altered
2321 without full compliance with the terms of Chapters 16D.05.20 through 16D.05.72 and other
2322 applicable regulations.

2323

2324 **16D.05.20.090 Warning and Disclaimer of Liability**

2325 The degree of flood protection required by Chapters 16D.05.20 through 16D.05.72 is considered
2326 reasonable for regulatory purposes and is based on scientific and engineering considerations.
2327 Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade
2328 or natural causes. Chapters 16D.05.20 through 16D.05.72 do not imply that land outside the area
2329 of special flood hazards or uses permitted within such area will not be subject to flooding or
2330 flood damage.

2331

2332 **16D.05.28 FLOOD HAZARD PROTECTION STANDARDS**

2333 Sections:

2334 16D.05.28.010 General Standards

2335 16D.05.28.020 Specific Standards

2336

2337 **16D.05.28.010 General Standards**

2338 The following regulations shall apply in all special flood hazard areas:

2339 (a) Anchoring and Construction Techniques.

2340 (1) All new construction and substantial improvements shall be:

2341 (A) Anchored to prevent flotation, collapse or lateral movement of the structure; and

2342 (B) Constructed using materials and utility equipment resistant to flood damage; and

2343 (C) Constructed using methods and practices that minimize flood damage; and

2344 (D) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other

2345 service facilities shall be designed and/or otherwise elevated or located so as to prevent water

2346 from entering or accumulating within the components during conditions of flooding.

2347 (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or

2348 lateral movement, and shall be installed using methods and practices that minimize flood

2349 damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties

2350 to ground anchors (Reference FEMA's Manufactured Home Installation in Flood Hazard Areas

2351 guidebook for additional techniques). Anchoring shall meet the specifications set forth below for

2352 structures located within one hundred feet of a floodway or the ordinary high water mark if no

2353 floodway has been established.

2354 (3) All new construction and any improvements or additions to existing floodproofed

2355 structures that would extend beyond the existing floodproofing located within one hundred feet

2356 of the floodway or one hundred feet of the ordinary high water mark if no floodway has been

2357 established, shall be elevated to a height equal to or greater than the base flood, using zero-rise

2358 methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that

2359 non-zero-rise construction methods will not impede the movement of floodwater or displace a

2360 significant volume of water. The size and spacing of any support devices used to achieve

2361 elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified

2362 above in subsection (1)(a) of this section.

2363 (4) Except where otherwise authorized, all new construction and substantial improvements to

2364 existing structures shall require certification by a registered professional engineer, architect or

2365 surveyor that the design and construction standards are in accordance with adopted floodproofing

2366 techniques.

2367 (b) Utilities.

2368 (1) All new and replacement water supply systems and sanitary sewage systems shall be
2369 designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from
2370 the systems into floodwaters; and on-site waste disposal systems shall be located to avoid
2371 impairment to them or contamination from them during flooding.

2372 (c) Subdivision Proposals. Subdivision proposals shall:

- 2373 (1) Be consistent with the need to minimize flood damage;
2374 (2) Have roadways, public utilities and other facilities such as sewer, gas, electrical, and
2375 water systems located and constructed to minimize flood damage;
2376 (3) Have adequate drainage provided to reduce exposure to flood damage; and
2377 (4) Include base flood elevation data.

2378
2379 (d) Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of
2380 any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a
2381 watercourse in riverine situations, the department shall notify adjacent communities, the
2382 Department of Ecology and FEMA of the proposed development.

2383
2384 **16D.05.28.020 Specific Standards**

2385 In all special flood hazard areas where base elevation data has been provided as set forth in
2386 Section 16D.05.20.010, the following regulations shall apply, in addition to the general
2387 regulations of Section 16D.05.28.010:

2388 (1) Residential Construction. (ref. IRC323.2)

2389 (A) New construction and substantial improvement of any residential structure shall
2390 have the lowest floor, including basement, elevated at a minimum to or above the base flood
2391 elevation.

2392 (B) Fully enclosed areas below the lowest floor that are subject to flooding are
2393 prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior
2394 walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement
2395 must either be certified by a registered professional engineer or architect or must meet or exceed
2396 the following minimum criteria:

2397 (i) A minimum of two openings having a total net area of not less than one square
2398 inch for every square foot of enclosed area subject to flooding shall be provided.

2399 (ii) The bottom of all openings shall be no higher than one foot above grade.

2400 (iii) Openings may be equipped with screens, louvers, or other coverings or devices,
2401 provided that they permit the automatic entry and exit of floodwaters.

2402 (C) Residential construction within one hundred feet of a floodway or the ordinary high
2403 water mark, if no floodway has been established, shall also meet the requirements of Section
2404 16D.05.28.010(a)(3).

2405 (2) Nonresidential Construction. New construction and substantial improvement of any
2406 commercial, industrial or other nonresidential structure, and any addition to an existing
2407 floodproofed structure that would extend beyond the existing floodproofing, shall either have the
2408 lowest floor, including basement, elevated a minimum of one foot above the base flood
2409 elevation; or, together with attendant utility and sanitary facilities, shall:

2410 (A) Be floodproofed so that below an elevation one foot above base flood level the
2411 structure is watertight, with walls substantially impermeable to the passage of water; and

2412 (B) Have structural components capable of resisting hydrostatic and hydrodynamic
2413 loads and effects of buoyancy;

2414 (C) Be certified by a registered professional engineer or architect that the design and
2415 method of construction are in accordance with accepted standards of practice for meeting
2416 provisions of this subsection, based on their development and/or review of the structural design,
2417 specifications and plans. Such certifications shall be provided to the building official;

2418 (D) Nonresidential structures that are elevated, not floodproofed, must meet the same
2419 standards for space below the lowest floor as described in Section 16D.05.28.020(1)(B) above;

2420 (E) Meet the special standards for structures set forth in Section 16D.05.28.010(a)(3)
2421 above if within one hundred feet of a floodway or within one hundred feet of the ordinary high
2422 water mark and no floodway has been established;

2423 (F) Applicants floodproofing nonresidential buildings shall be notified that flood
2424 insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a
2425 building constructed to the base flood level will be rated as one foot below the level). Flood
2426 proofing the building an additional foot will reduce insurance premiums significantly. (Ref. IBC
2427 1612.5)

2428 (3) Agricultural Construction. New construction and substantial improvement of any
2429 agricultural structure shall either have the lowest floor, including basement, elevated at a
2430 minimum to or above the base flood elevation; or meet the floodproofing requirements of
2431 subsection (2) of this section. Agricultural construction or other accessory structures that
2432 constitute a minimal investment and comply with the floodway encroachment standards may be
2433 exempt from the floodproofing and elevation requirements of subsection (2) above when such
2434 structures, together with attendant utility sanitary facilities:

2435 (A) Have a low potential for structural flood damage;

2436 (B) Are designed and oriented to allow the free passage of floodwaters through the
2437 structure in a manner affording minimum flood damage; and

2438 (C) Ensure that all electrical and mechanical equipment subject to floodwater damage
2439 and permanently affixed to the structure be elevated a minimum of one foot above the base flood
2440 elevation or higher, or floodproofed;

2441 (D) Are constructed and placed on the building site so as to offer the minimum
2442 resistance to the flow of floodwaters; and

2443 (E) Will not be used for human habitation.

2444 All such structures shall be anchored to resist flotation, collapse, and lateral movement, and that
2445 only flood resistant materials be used for elements of these buildings below the base flood
2446 elevation.

2447 (4) Manufactured Homes.

2448 (A) Manufactured homes shall be anchored in accordance with Section
2449 16D.05.28.010(a)(2), shall have the lowest floor elevated to or above the base flood elevation,
2450 and shall be securely anchored to an adequately anchored foundation system to resist flotation,
2451 collapse and lateral movement in accordance with Section 16D.05.28.010(a)(2).

2452

2453 **16D.05.32 FLOODWAY FRINGE USES**

2454 Sections:

2455 16D.05.32.010 Permitted Uses

2456 16D.05.32.020 Prohibited Uses

2457

2458 **16D.05.32.010 Permitted Uses**

2459 The following uses are permitted in the floodway fringe areas:
 2460 (1) Any use permitted in the zoning district in accordance with YCC Title 15 or 15A of the
 2461 Yakima County Code, unless prohibited by Section 16D.05.32.020.
 2462 (2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent
 2463 with YCC Title 15 and where not otherwise inconsistent with Chapters 16D.05.20 through
 2464 16D.05.72; except that when the primary purpose of such a transmission line is to transfer bulk
 2465 products or energy through a floodway fringe or special flood hazard area, such transmission line
 2466 shall conform to the following:
 2467 (A) Electric transmission lines shall cross floodway fringe and special flood hazard
 2468 areas by the most direct route feasible. When support towers must be located within floodway
 2469 fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or
 2470 depth areas, and shall be adequately floodproofed.
 2471 (B) Buried utility transmission lines transporting hazardous materials, including but not
 2472 limited to crude and refined petroleum products and natural gas, shall be buried a minimum of
 2473 four feet. Such burial depth shall be maintained within the floodway fringe or special flood
 2474 hazard area to the maximum extent of potential channel migration as determined by hydrologic
 2475 analyses. All such hydrologic analyses shall conform to requirements of Section
 2476 16D.05.36.010(2)(c).
 2477 (C) Beyond the maximum extent of potential channel migration, utility transmission
 2478 lines transporting hazardous and nonhazardous materials shall be buried below existing natural
 2479 and artificial drainage features. Burial depth in all other agricultural and nonagricultural
 2480 floodway fringe or special flood hazard areas shall be determined on the basis of accepted
 2481 engineering practice and in consideration of soil conditions and the need to avoid conflict with
 2482 agricultural tillage.
 2483 (D) Aboveground utility transmission lines, not including electric transmission lines,
 2484 shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants
 2485 must demonstrate that line placement will have no appreciable effect upon flood depth, velocity
 2486 or passage. Such lines shall be adequately protected from flood damage.
 2487 (E) Aboveground utility transmission line appurtenant structures, including valves,
 2488 pumping stations or other control facilities, shall not be permitted in floodway fringe or special
 2489 flood hazard areas except where no other alternative is available, or in the event a floodway
 2490 fringe or special flood hazard location is environmentally preferable. In such instances,
 2491 aboveground structures shall be located so that no appreciable effect upon flood depth, velocity
 2492 or passage is created, and shall be adequately floodproofed.

2493
 2494 **16D.05.32.020 Prohibited Uses**

2495 The following uses shall be prohibited in floodway fringe areas:

- 2496 (1) New manufactured home parks and the expansion of manufactured home/parks.
 2497

2498 **16D.05.36 FLOODWAY USES**

2499 Sections:

- 2500 16D.05.36.010 Permitted Uses
 2501 16D.05.36.020 Prohibited Uses

2502
 2503 **16D.05.36.010 Permitted Uses**

2504 Permitted uses include any use permitted in the zoning district in accordance with YCC Title 15
2505 of this code, provided that said use is in compliance with the flood hazard protection standards of
2506 Chapter 16D.05.28 and other applicable provisions of this title, and will have a negligible effect
2507 upon the floodway in accordance with the floodway encroachment provisions of Section
2508 16D.05.36.020(2):

2509 (1) Surface mining, provided that the applicant can provide clear evidence that such uses will
2510 not divert flood flows causing channel-shift or erosion, accelerate or amplify the flooding of
2511 downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in
2512 any other way threaten public or private properties. When allowed, such removal shall comply
2513 with the provisions of YCC Title 15 and the Yakima County Shoreline Management Master
2514 Program Regulations (WAC-173-19-470).

2515 (2) Utility transmission lines, unless otherwise prohibited by this division; except that when
2516 the primary purpose of such a transmission line is to transfer bulk products or energy through a
2517 floodway en route to another destination, as opposed to serving customers within a floodway,
2518 such transmission lines shall conform to the following:

2519 (A) All utility transmission lines shall cross floodways by the most direct route feasible
2520 as opposed to paralleling floodways,

2521 (B) Electric transmission lines shall span the floodway with support towers located in
2522 flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width,
2523 support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be
2524 adequately floodproofed,

2525 (C) Buried utility transmission lines transporting hazardous and nonhazardous materials,
2526 including but not limited to crude and refined petroleum products and natural gas, water and
2527 sewage, shall be buried a minimum of four feet below the maximum established scour of the
2528 waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be
2529 maintained horizontally within the hydraulic floodway to the maximum extent of potential
2530 channel migration as determined by hydrologic analyses. In the event potential channel
2531 migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and
2532 special flood hazard areas shall also govern placement. All hydrologic analyses are subject to
2533 acceptance by Yakima County, shall assume the conditions of a one-hundred-year frequency
2534 flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations
2535 and consideration of historical meander characteristics in addition to other pertinent facts and
2536 data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall
2537 be consistent with the Yakima County Shoreline Management Master Program Regulations,

2538 (D) Beyond the maximum extent of potential channel migration, utility transmission
2539 lines transporting hazardous and nonhazardous materials shall be buried below existing natural
2540 and artificial drainage features. Burial depth in all agricultural areas requiring or potentially
2541 requiring subsurface drainage shall be a minimum of six feet as measured from ground surface to
2542 the top of the transmission line, or at other such depth as deemed necessary by on-site
2543 investigations performed by a qualified soils expert familiar with Yakima County soils. Burial
2544 depth in all other agricultural and nonagricultural floodway areas shall be determined on the
2545 basis of accepted engineering practice and in consideration of soil conditions and the need to
2546 avoid conflict with agricultural tillage,

2547 (E) Aboveground utility transmission lines, not including electric transmission lines,
2548 shall only be allowed for the transportation of nonhazardous materials where an existing or new
2549 bridge or other structure is available and capable of supporting the line. When located on existing

2550 or new bridges or other structures with elevations below the level of the one-hundred-year flood,
2551 the transmission line shall be placed on the downstream side and protected from flood debris. In
2552 such instances, site-specific conditions and flood damage potential shall dictate placement,
2553 design and protection throughout the floodway. Applicants must demonstrate that such
2554 aboveground lines will have no appreciable effect upon flood depth, velocity or passage, and
2555 shall be adequately protected from flood damage. If the transmission line is to be buried except
2556 at the waterway crossing, burial specifications shall be determined as in subsection (2)(C) of this
2557 section;

2558 (F) Aboveground utility transmission line appurtenant structures, including valves,
2559 pumping stations, or other control facilities, shall not be permitted in the floodway,

2560 (G) Where a floodway has not been determined by preliminary Corps of Engineers'
2561 investigations or official designation, a floodway shall be defined by qualified engineering work
2562 by the applicant on the basis of a verified one-hundred-year flood event;

2563 (3) Construction or reconstruction of residential structures only as authorized in Section
2564 16D.05.36.020(3);

2565 (4) Improvements to existing residential structures that are not substantial improvements per
2566 Section 16D.05.24.260; provided, the improvement complies with the requirement set forth in
2567 Section 16D.05.36.020(2).

2568 (5) Water-dependent utilities and other installations which by their very nature must be in the
2569 floodway. Examples of such uses are: dams for domestic/industrial water supply, flood control
2570 and/or hydroelectric production; water diversion structures and facilities for water supply,
2571 irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities;
2572 hydroelectric generating facilities and appurtenant structures; structures and nonstructural uses
2573 and practices; provided, that the applicant shall provide evidence that a floodway location is
2574 necessary in view of the objectives of the proposal, and provided further that the proposal is
2575 consistent with other provisions of this title and the Shoreline Management Master Program. In
2576 all instances of locating utilities and other installations in floodway locations, project design
2577 must incorporate floodproofing and otherwise comply with subsection (2) above;

2578 (6) Dikes, provided that the applicant can provide evidence that:

2579 (A) Adverse effects upon adjacent properties will not result relative to increased
2580 floodwater depths and velocities during the base flood or other more frequent flood occurrences,

2581 (B) Natural drainage ways are minimally affected in that their ability to adequately drain
2582 floodwaters after a flooding event is not impaired,

2583 (C) The proposal has been coordinated through the appropriate diking district where
2584 applicable, and that potential adverse effects upon other affected diking districts have been
2585 documented;

2586 (7) Roads and bridges, subject to the regulations of Section (2) above.

2587

2588 **16D.05.36.020 Prohibited Uses**

2589 The following uses/developments are prohibited in the floodway:

2590 (1) Any structure, including manufactured homes, designed for, or to be used for human
2591 habitation of a permanent nature (including temporary dwellings authorized by Section
2592 15.72.060);

2593 (2) All encroachments, including fill, new construction and other development unless
2594 certification by a registered professional engineer is provided demonstrating through hydrologic
2595 and hydraulic analysis performed in accordance with standard engineering practice that the effect

2596 of the subject encroachment together with the cumulative effects of all similar potential
2597 encroachments shall not materially cause water to be diverted from the established floodway,
2598 cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or
2599 result in any increase in flood levels during the occurrence of the base flood discharge;

2600 (3) Construction or reconstruction of residential structures within designated floodways,
2601 except for (i) repairs, reconstruction, or improvements to a structure which do not increase the
2602 ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of
2603 which does not exceed fifty percent of the assessed value of the structure either (A) before the
2604 repair, reconstruction or improvement is started, or (B) if the structure has been damaged and is
2605 being restored, before the damage occurred. Work done on structures to correct existing
2606 violations of existing health, sanitary or safety codes, or to structures identified as historic places
2607 shall not be included in the fifty percent. If subsection (2) of this section is satisfied, all new
2608 construction and substantial improvements shall comply with all applicable flood hazard
2609 reduction provisions of Chapters 16D.05.20 through 16D.05.72, including those set forth in
2610 subsection (5) below;

2611 (4) The construction or storage of any object subject to flotation or movement during flood
2612 level periods;

2613 (5) The following uses, due to their high degree of incompatibility with the purpose of
2614 establishing and maintaining a functional floodway, are specifically prohibited:

2615 (A) The filling of wetlands, except as authorized under Chapter 16D.06 (Fish and
2616 Wildlife Habitat and the Stream Corridor) and Chapter 16D.07 (Wetlands) of this title,

2617 (B) Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or
2618 materials,

2619 (C) Damming or relocation of any watercourse that will result in any downstream
2620 increase in flood levels during the occurrence of the base flood discharge;

2621 (6) The listing of prohibited uses in this section shall not be construed to alter the general
2622 rule of statutory construction that any use not permitted is prohibited.

2623

2624 **16D.05.40 NON-CONFORMING USES AND STRUCTURES**

2625 Sections:

2626	16D.05.40.010	Generally
2627	16D.05.40.020	Non-conforming Uses of Land
2628	16D.05.40.030	Non-conforming Structures
2629	16D.05.40.040	Improvements
2630	16D.05.40.050	Restoration
2631	16D.05.060	Discontinuance

2632

2633 **16D.05.40.010 Generally**

2634 (a) Within the special flood hazard areas established by Chapters 16D.05.20 through 16D.05.72
2635 or amendments thereto, there may exist structures and uses of land and structures which were
2636 lawful before these chapters were adopted or amended, but which would be prohibited, regulated
2637 or restricted under the terms of Chapters 16D.05.20 through 16D.05.72 or future amendment.

2638 (b) It is the intent of Chapters 16D.05.20 through 16D.05.72 to permit these lawful pre-existing
2639 nonconformities to continue until they are removed by economic forces or otherwise, but not to
2640 encourage their survival except in cases where continuance thereof would not be contrary to the
2641 public health, safety or welfare, or the spirit of said chapters.

2642 (c) To avoid undue hardship, nothing in Chapters 16D.05.20 through 16D.05.72 shall be deemed
2643 to require a change in the plans, construction, or designated use of any building on which actual
2644 construction was lawfully begun prior to June 5, 1985, the date Yakima County enacted
2645 Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program,
2646 and upon which actual building construction has been diligently carried on; namely, actual
2647 construction materials placed in permanent position and fastened in a permanent manner. Where
2648 demolition or removal of an existing building has been substantially begun preparatory to
2649 rebuilding, such demolition or removal shall be deemed to be actual construction, provided that
2650 work shall be diligently carried on until completion of the building involved. October 1, 1995,
2651 the effective date of the ordinance codified in this title shall be used as it applies to all other
2652 Critical Areas requirements established under this title by Ordinance 8-1995.

2653

2654 **16D.05.40.020 Non-conforming Uses of Land**

2655 If, on October 1, 1995, the effective date of Chapters 16D.05.20 through 16D.05.72, a lawful use
2656 of land not conducted within a building exists that is made no longer permissible under the terms
2657 of said chapters as adopted or amended, such use may be continued as long as it remains
2658 otherwise lawful, subject to the following provisions:

2659 (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a
2660 greater area of the lot of record than that which it occupied at the effective date of adoption or
2661 amendment of Chapters 16D.05.20 through 16D.05.72.

2662 (2) At such time as a structure is erected thereon, the structure and the use of the land shall
2663 conform to the regulations specified by Chapters 16D.05.20 through 16D.05.72 and YCC Titles
2664 15 or 15A.

2665

2666 **16D.05.40.030 Non-conforming Structures**

2667 (a) If, on October 1, 1995, the effective date of Chapters 16D.05.20 through 16D.05.72, a
2668 structure is nonconforming only because the structure is not in conformance with the applicable
2669 elevation and/or floodproofing requirement of said chapters and Chapter 15.68 of YCC Title 15,
2670 or Chapter 15A.19 of YCC Title 15A provided that the degree of nonconformity shall not be
2671 increased and the applicable elevation and/or floodproofing requirements of this title shall be
2672 observed, any structural alterations or enlargements of an existing structure under such
2673 conditions shall not increase the degree of nonconformity.

2674 (b) A structure, nonconforming only because the structure is not in conformance with the
2675 applicable elevation and/or floodproofing requirements of Chapters 16D.05.20 through
2676 16D.05.72, destroyed to an extent such that restoration costs would exceed fifty percent of the
2677 assessed value of the structure immediately prior to such occurrence, shall be considered
2678 completely destroyed and shall be required to meet all applicable requirements of this title and
2679 YCC Titles 15 or 15A upon restoration.

2680

2681 **16D.05.40.040 Improvements**

2682 Nothing in Chapters 16D.05.20 through 16D.05.72 shall be construed to restrict normal
2683 structural repair and maintenance activities, including replacement of walls, fixtures and
2684 plumbing, provided that the value of work and materials in any twelve-month period does not
2685 exceed twenty-five percent of the assessed value of the structure prior to such work.

2686

2687 **16D.05.40.050 Restoration**

2688 Nothing in Chapters 16D.05.20 through 16D.05.72 shall be deemed to prohibit the restoration of
2689 the structural portions of a nonconforming use within six months from the date of its accidental
2690 damage by fire, explosion, or act of God; provided that the applicable elevation and/or
2691 floodproofing requirements of said chapters shall be adhered to if the structure is destroyed. A
2692 structure shall be considered to be destroyed if the restoration costs exceed fifty percent of the
2693 assessed value.

2694

2695 **16D.05.060 Discontinuance**

2696 If the nonconforming use is discontinued for a period of twelve consecutive months or more, the
2697 nonconforming status of the use is terminated and any future use of the land or structures shall be
2698 in conformity with the provisions of this title. The mere presence of a structure, equipment, or
2699 material shall not be deemed to constitute the continuance of a nonconforming use unless the
2700 structure, equipment or material is actually being occupied or employed in maintaining such use.
2701 The ownership of property classed as nonconforming may be transferred without that fact alone
2702 affecting the right to continue such nonconforming use.

2703

2704 **16D.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION**

2705 Sections:

- 2706 16D.05.44.010 Administration
- 2707 16D.05.44.020 Authority
- 2708 16D.05.44.030 Permit – Required
- 2709 16D.05.44.040 Permit – Application
- 2710 16D.05.44.050 Permit – Review
- 2711 16D.05.44.060 Use of Available Data
- 2712 16D.05.44.070 Limitations
- 2713 16D.05.44.080 Permit – Expiration & Cancellation

2714

2715 **16D.05.44.010 Administration**

2716 The Chief Building Official is vested with the duty of administering the rules and regulations
2717 relating to flood hazard protection in accordance with the provisions of Chapters 16D.05.20
2718 through 16D.05.72 and may prepare and require the use of such forms as are essential to such
2719 administration.

2720

2721 **16D.05.44.020 Authority**

2722 Upon application, the Chief Building Official shall have the authority to grant a flood hazard
2723 permit when compliance with the applicable conditions as set forth in Chapters 16D.05.20
2724 through 16D.05.72 and in other applicable local, state and federal regulations has been
2725 demonstrated and the proposal is found to be consistent with the purpose of the policies of the
2726 Critical Areas Ordinance.

2727

2728 **16D.05.44.030 Permit – Required**

2729 Prior to any development within a special flood hazard area a flood hazard permit shall be
2730 obtained. This permit may be in addition to the critical area development authorization as set
2731 forth in Chapter 16D.03 of this title.

2732

2733 **16D.05.44.040 Permit – Application**

2734 All persons applying for a flood hazard permit shall submit a written application, accompanied
2735 by an application fee as specified in YCC Title 20, using the forms supplied. The application
2736 shall not be considered complete until the following minimum information is provided:
2737 (1) Name, address and telephone number of applicant;
2738 (2) Name, address and telephone number of property owner;
2739 (3) Project description and taxation parcel number;
2740 (4) Name of the stream or body of water associated with the floodplain in which the
2741 development is proposed;
2742 (5) Site plan map showing:
2743 (A) Actual dimensions and shape of the parcel to be built on,
2744 (B) Sizes and location of existing structures on the parcel to the nearest foot,
2745 (C) Location and dimensions of the proposed development, structure or alteration,
2746 (D) Location, volume and type of any proposed fill,
2747 (E) The application shall include such other information as may be required by the
2748 administrative official, to clarify the application, including existing or proposed building or
2749 alteration, existing or proposed uses of the building and land, and number of families,
2750 housekeeping units or rental units the building is designed to accommodate, conditions existing
2751 on the lot, and such other matters as may be necessary to determine conformance with, and
2752 provide for the enforcement of Chapters 16D.05.20 through 16D.05.72;
2753 (6) Information required by other sections of Chapters 16D.05.20 through 16D.05.72.

2754

2755 **16D.05.44.050 Permit – Review**

2756 Flood hazard permit applications will be reviewed to determine:

- 2757 (1) That the floodproofing requirements and other provisions of Chapters 16D.05.20 through
2758 16D.05.72 have been satisfied;
2759 (2) If the proposed development is located in the floodway, the floodway encroachment
2760 provisions of Section 16D.05.36.020(2) are met;
2761 (3) If the proposed development includes the alteration or relocation of a watercourse, the
2762 provisions of Section 16D.05.28.010(d) are met;
2763 (4) That the proposed development is a use permitted under Chapters 16D.05.20 through
2764 16D.05.72 and YCC Titles 15 or 15A;
2765 (5) That all necessary permits have been obtained from those federal, state or local
2766 governmental agencies from which prior approval is required.

2767

2768 **16D.05.44.060 Use of Available Data**

2769 When base flood elevation data has not been provided in accordance with Section
2770 16D.05.20.010, Flood hazard areas established, the county shall obtain, review, and reasonably
2771 utilize any base flood elevation and floodway data available from a federal, state or other source,
2772 in order to administer Section 16D.05.28.020, Specific standards, and 16D.05.36.020, Floodway
2773 Prohibited Uses, and Chapter 16D.04 (Enforcement and Penalties).

2774

2775 **16D.05.44.070 Limitations**

2776 Permits issued on the basis of plans and applications approved by the administrative official
2777 authorize only the use, arrangement and construction set forth in such approved plans and
2778 applications, and no other use, arrangement or construction. Use, arrangement or construction at
2779 variance with that authorized is a violation of Chapters 16D.05.20 through 16D.05.72 and
2780 punishable as provided by 16D.04 (Enforcement and Penalties).

2781
2782 **16D.05.44.080 Permit – Expiration & Cancellation**

2783 If the work described in any permit has not begun within one hundred eighty days from the date
2784 of issuance thereof, the permit shall expire and be canceled by the chief building official.

2785
2786 **16D.05.44.090 Performance bonds**

2787 (a) The county may require bonds in such form and amounts as may be deemed necessary to
2788 assure that the work shall be completed in accordance with approvals under Chapters 16D.05.20
2789 through 16D.05.72. Bonds, if required, shall be furnished by the property owner, or other person
2790 or agent in control of the property.

2791 (b) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the
2792 department in an amount equal to that which would be required in the surety bond.

2793
2794 **16D.05.44.100 Appeals**

2795 The decision to grant, grant with conditions or deny a flood hazard permit shall be final and
2796 conclusive unless the applicant appeals the decision pursuant to the procedure established for
2797 appeals in Chapter 16D.03.

2798
2799 **16D.05.44.110 Coordination**

2800 Upon application, the Chief Building Official shall have the authority to grant a flood hazard
2801 permit when compliance with the applicable conditions as set forth in Chapter 16D.05.20
2802 through 16D.05.72 and in other applicable local, state and federal regulations has been
2803 demonstrated and the proposal is found to be consistent with the purpose of this title.

2804
2805 **16D.05.48 ELEVATION AND FLOODPROOFING CERTIFICATION**

2806 Sections:

2807	16D.05.48.010	Applicability
2808	16D.05.48.020	Certification Form
2809	16D.05.48.030	Information to be obtained and maintained
2810	16D.05.48.040	Certification Responsibility

2811
2812 **16D.05.48.010 Applicability**

2813 Certification shall be provided to verify that the minimum floodproofing and elevation standards
2814 of Chapter 16D.05.28 have been satisfied. Certification shall be required only for the new
2815 construction or substantial improvement of any residential, commercial, industrial or
2816 nonresidential structure located in a special flood hazard area, except that agricultural and certain
2817 accessory structures constructed in accordance with the standards of Section 16D.05.28.020(3)
2818 shall not require certification. Such structures are still subject to elevation or floodproofing
2819 certification for flood insurance purposes.

2820
2821 **16D.05.48.020 Certification Form**

2822 The form of the elevation and floodproofing certificate shall be specified by the Chief Building
2823 Official and shall be generally consistent with that required by FEMA for the administration of
2824 the National Flood Insurance Program.).

2825

2826 **16D.05.48.030 Information to be obtained and maintained**

2827 The elevation and floodproofing certificate shall verify the following flood hazard protection
2828 information:

2829 (1) The actual elevation (in relation to mean sea level) of the lowest floor (including
2830 basement) of all new or substantially improved structures, and whether or not the structure
2831 contains a basement;

2832 (2) The actual elevation (in relation to mean sea level) of floodproofing of all new or
2833 substantially improved floodproofed structures, and that the floodproofing measures utilized
2834 below the base flood elevation render the structure watertight, with walls substantially
2835 impermeable to the passage of water;

2836 (3) Where a base flood elevation has not been established according to Section
2837 16D.05.20.010, obtain and record the actual elevation (in relation to mean sea level) of the
2838 lowest floor (including basement) as related to the highest adjacent grade, and whether or nor the
2839 structure contains a basement.

2840

2841 **16D.05.48.040 Certification Responsibility**

2842 The project proponent shall be responsible for providing required certification data to the Chief
2843 Building Official prior to the applicable construction inspection specified in the certification
2844 form. All elevation and floodproofing data specified in Section 16D.05.48.030 must be obtained
2845 and certified by a registered professional engineer, architect, or surveyor. The elevation and
2846 floodproofing certification shall be permanently maintained by the chief building official.

2847

2848 **16D.05.52 VARIANCES**

2849 **Sections:**

2850	16D.05.52.010	Procedure
2851	16D.05.52.020	Variance limitations
2852	16D.05.52.030	Conditions for Authorization
2853	16D.05.52.040	Administrative Official's Decision
2854	16D.05.52.050	Notification and Final Decision
2855	16D.05.52.060	Power to Refer Decisions
2856	16D.05.52.070	Appeals

2857

2858 **16D.05.52.010 Procedure**

2859 Any person seeking a variance from the requirements of Chapters 16D.05.20 through 16D.05.72
2860 authorized under Section 16D.05.52.020 shall make such request in writing to the department on
2861 forms supplied by the department. Upon receipt of a completed application and application fee
2862 for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent
2863 property within twenty days of the receipt of completed application and fee. The notice shall
2864 solicit written comment on the variance request and specify a time period not less than ten days
2865 from the date of mailing, during which written comments may be received and considered. The
2866 notice shall also state that copies of the administrative official's final decision will be mailed

2867 upon request. The administrative official may also solicit comments from any other person or
2868 public agency he or she feels may be affected by the proposal.

2869

2870 **16D.05.52.020 Variance limitations**

2871 (a) Variances shall be limited solely to the consideration of:

2872 (1) Elevation requirements for lowest floor construction;

2873 (2) Elevation requirements for floodproofing;

2874 (3) The type and extent of floodproofing.

2875 (b) Variances shall not be considered for any procedural or informational requirements or use
2876 prohibitions of Chapters 16D.05.20 through 16D.05.72.

2877

2878 **16D.05.52.030 Conditions for Authorization**

2879 Before a variance to the provisions of Chapters 16D.05.20 through 16D.05.72 may be
2880 authorized, it shall be shown that:

2881 (1) There are special circumstances applicable to the subject property or to the intended use,
2882 such as size, topography, location or surroundings, that do not apply generally to other property
2883 in the same vicinity and zone; and

2884 (2) The granting of such variance will not be materially detrimental to the public welfare or
2885 injurious to the property or improvements in the vicinity and zone in which the subject property
2886 is located; and

2887 (3) Such a variance is the minimum necessary, considering the flood hazard, to afford relief;
2888 and

2889 (4) Failure to grant the variance would result in exceptional hardship to the applicant; and

2890 (5) The granting of such a variance will not result in:

2891 (A) Increased flood heights,

2892 (B) Additional threats to public safety,

2893 (C) Creation of nuisances,

2894 (D) Extraordinary public expense,

2895 (E) Conflicts with other existing local laws or ordinances.

2896

2897 **16D.05.52.040 Administrative Official's Decision**

2898 After considering any comments received from other agencies, jurisdictions or adjoining
2899 property owners, the administrative official shall approve, approve with conditions, or deny the
2900 variance request. The administrative official shall prepare written findings and conclusions
2901 stating the specific reasons upon which the decision is based.

2902

2903 **16D.05.52.050 Notification and Final Decision**

2904 The decision shall be issued within seven days from the end of the comment period. Further, the
2905 administrative official shall mail the findings and decision to the applicant and to other parties of
2906 record requesting a copy.

2907

2908 **16D.05.52.060 Power to Refer Decisions**

2909 In exercising the duties and powers of implementing and administering Chapters 16D.05.20
2910 through 16D.05.72, the administrative official may refer any variance application to the hearing
2911 examiner for action at a public hearing.

2912

2913 **16D.05.52.070 Appeals**
2914 Any decision by the administrative official to approve or deny a variance request may be
2915 appealed subject to the procedures set forth in Section 16D.03.13 (Development Authorization –
2916 Review Procedure).

2917
2918 **16D.05.72 Map Correction Procedures**

2919 Sections:

2920 **16D.05.72 Map Correction Procedures**

2921 16D.05.72.010 Federal flood hazard map correction procedures. The procedures for federal
2922 flood hazard map correction, as provided in federal regulations Section 70 CFR of the National
2923 Insurance Program are hereby adopted by reference.

2924		Chapter 16D06
2925		FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM
2926	<u>Sections:</u>	
2927		Introduction
2928	16D.06.01	Purpose and Intent
2929	16D.06.02	Protection Approach
2930		
2931		Designation and Mapping
2932	16D.06.03	Hydrologically Related Critical Area Features
2933	16D.06.04	Upland Wildlife Habitat and Habitats of Local Importance
2934	16D.06.05	Functional Properties
2935	16D.06.06	Stream, Lake and Pond Typing System
2936	16D.06.07	Wetland Rating System
2937	16D.06.08	Maps
2938	16D.06.09	Upland Wildlife Habitat and Habitats of Local Importance Development Standards
2939		
2940		
2941		General Development Standards
2942	16D.06.10	Prohibited Uses
2943	16D.06.11	General Policies and Standards
2944		
2945		Water Dependency Development Standards and Buffer Requirements
2946	16D.06.12	Use Classifications
2947	16D.06.13	Water-dependent Uses
2948	16D.06.14	Water-related Uses
2949	16D.06.15	Water enjoyment uses and Non-water Oriented Uses
2950	16D.06.16	Vegetative Buffers
2951		
2952		Land Modification Development Standards
2953	16D.06.17	Roads, Railroads and Parking
2954	16D.06.18	Utility Transmission Lines
2955	16D.06.19	Shore Stabilization
2956	16D.06.20	Dredging and Excavation
2957	16D.06.21	Filling
2958	16D.06.22	Commercial Mining of Gravels
2959	16D.06.23	Reclamation
2960		
2961		Shoreline Use Development Standards
2962	16D.06.24	Forest Practices
2963	16D.06.25	Commercial and Commercial Services
2964	16D.06.26	Industrial Activities
2965	16D.06.27	Residential
2966	16D.06.28	Recreation
2967	16D.06.29	Agriculture
2968	16D.06.30	Aquaculture
2969	16D.06.31	Piers and Docks

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16D.06.01 Purpose and Intent

- 1) The stream corridor system includes hydrologically related critical areas, streams, lakes, ponds, and wetlands, including those features within Shoreline jurisdiction where applicable, and are part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to help conserve, protect, and, where feasible, restore and enhance this complex relationship. These regulations have been designed to:
 - a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the functions and values of fish and wildlife habitat, wetlands, stream undercutting geologic hazards and frequently flooded areas; and to give special consideration to anadromous fish applicable to Shoreline jurisdiction;
 - b) Meet the requirements of the Shoreline Management Act (RCW 90.58) to protect the ecosystem-wide processes of state Shorelines within Shoreline jurisdiction;
 - c) Meet eligibility requirements of the National Flood Insurance Program (NFIP).
- 2) The guidelines, policies, and standards of this chapter are intended to:
 - a) Provide alternatives for necessary development, construction, and uses within a designated stream corridor and other hydrologically related critical areas;
 - b) Prevent further degradation in the quantity and quality of surface and subsurface waters;
 - c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation, and ecological relationships;
 - d) Protect public and private properties from adverse effects of improper development within hazardous or sensitive areas of the stream corridor;
 - e) Provide a zero net loss of natural wetlands functions and values together with, a gain of wetlands in the long term, if reasonably possible through voluntary agreements or government incentives;
 - f) Establish measures to protect streams, lakes, ponds, and wetlands under Shoreline jurisdiction that are at least as protective as the measures applying outside Shoreline jurisdiction as required by RCW 90.58.030 (Finding -- Intent -- 2003 c 321);
 - g) Recognize that, based on WAC 365-190-080(5) (Fish and Wildlife Habitat Conservation Areas) wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important;
 - h) Emphasize that these provisions do not attempt to protect individuals of species. Rather, these provisions are intended to provide protection for wildlife habitats.

16D.06.02 Protection Approach

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

3016 corridors offer a natural system of such linkages. Yakima County accomplishes fish and
 3017 wildlife habitat protection in 3 parts:

3018 a) Protect habitat for aquatic (in-water) species through stream, lake, pond and wetland
 3019 standards;

3020 b) Protect habitat for riparian (near-water) species through stream, lake, pond, and wetland
 3021 standards and buffer requirements;

3022 c) Protect habitat for upland species using the upland wildlife habitat protection measures
 3023 described below.

3024 2) Yakima County has a very high proportion of federal, state and other publicly and tribally
 3025 owned land, including State Natural Area Preserves and Natural Resource Conservation
 3026 Areas. These lands are managed to some extent for the conservation of wildlife habitat.
 3027 Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is
 3028 to rely on the management of these lands by the responsible entity.

3029 3) To accomplish upland wildlife protection on private lands, Yakima County performed an
 3030 assessment to map wildlife habitat. Only a small percentage of the mapped area is within
 3031 private ownership and that is largely in remote areas of forest and rangeland. Consequently,
 3032 part of Yakima County's approach to protect upland wildlife on private land is to rely on the
 3033 large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum)
 3034 and Agriculture (40 acre minimum) zoning districts.

3035 4) Corridors for wildlife to move between large habitat areas are a component of wildlife
 3036 habitat. Riparian corridors offer a natural system of linkages between such areas. In semi-
 3037 arid regions such as Yakima County, riparian corridors not only offer migratory linkages
 3038 between large habitat areas but also offer important refuge and habitat for numerous species
 3039 that rely on the riparian areas for their existence. Consequently, Yakima County's approach
 3040 to protect wildlife migration corridors and riparian habitat is to rely on the protection
 3041 measures for stream corridors, wetlands, and Shoreline jurisdiction, where applicable.

3042 5) Yakima County's approach to protecting aquatic habitat is to rely on the protection standards
 3043 for stream corridors, wetlands, and Shoreline jurisdiction (where applicable).

3044 6) The state gives some discretion to local governments in designating fish and wildlife habitat.
 3045 WAC 365-190-080(5)(a) (fish and wildlife habitat designation) identifies six non-marine
 3046 habitat types from which to choose in designating fish and wildlife habitat, but does not
 3047 require the use of all listed habitat types. Five habitat types are protected using the
 3048 approaches described above. The remaining habitat type - Threatened, Endangered, and
 3049 Sensitive Species Habitat is difficult to use due to the difficulties in obtaining accurate maps
 3050 of habitat for the different species. In addition, such species are protected by federal and
 3051 state laws which are administered by other agencies. Yakima County's approach to
 3052 protecting Threatened, Endangered, and Sensitive Species Habitat is to do so indirectly,
 3053 using each of the above listed protection approach items. Direct protection measures are
 3054 deferred to the relevant state or federal agency with jurisdiction over the different species.
 3055 Yakima County will consider comments and advice related to a species from such agencies
 3056 in the course of normal development review processes.

3057
 3058 **Designation and Mapping**

3059
 3060 **16D.06.03 Hydrologically Related Critical Area Features**

3061 The stream corridor and other hydrologically related critical areas include one or more of the
3062 following features:
3063 1) Any floodway and floodplain identified as a special flood hazard area. Special flood hazard
3064 areas are those identified by the Federal Insurance Administration in the Flood Insurance
3065 Study for Yakima County which, together with accompanying Flood Insurance Maps, is
3066 hereby adopted by reference and declared to be a part of this title as set forth in Chapters
3067 16D.05.20 through 16D.05.72;
3068 2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main
3069 channel and all secondary channels within the Ordinary High Water Mark;
3070 3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-
3071 made lakes and ponds created within a stream channel designated under (2) above;
3072 4) All wetlands, that meet the definition found in Section 16D.02.425, as required by WAC
3073 365-190-080(1), and as designated in section 16D.07.02(1) of the wetland chapter;
3074 5) Where specifically cited, any flood-prone area not included in a designated floodway and
3075 floodplain but indicated as flood-prone by U.S. Soil Conservation Service soil survey data or
3076 geologic evidence developed through professional geologists or engineers;
3077 6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream
3078 channel, lake, or pond, designated in this section or from the edge of a wetland designated in
3079 this section according to the distances set forth in Section 16D.06.16 (Vegetative Buffers);
3080 7) Lakes and ponds meeting the designation criteria in the Shoreline Management Act (RCW
3081 90.58 .030) listed in Appendix B.
3082

3083 **16D.06.04 Upland Wildlife Habitat and Habitats of Local Importance**

- 3084 1) State Natural Area Preserves and Natural Resource Conservation Areas shall be designated
3085 Upland Wildlife Habitat.
3086 2) Species and Habitats of Local Importance. These are habitats or species that due to their
3087 declining population, sensitivity to habitat manipulation or other values make them important
3088 on a local level. Habitats of Local Importance may include a seasonal range or habitat
3089 element with which a given species has a primary association, and which, if altered, may
3090 reduce the likelihood that the species will maintain and reproduce over the long term.
3091 a) Species and Habitats of Local Importance may be identified for protection under this title.
3092 State or local agencies, individuals or organizations may identify and nominate for
3093 consideration specific species and habitats, or a general habitat type, including streams,
3094 ponds or other features. Proponents shall have the burden of presenting evidence
3095 concerning the criteria set forth below. The nomination shall be processed once a year
3096 through the annual *Comprehensive Plan 2015* amendment cycle.
3097 b) The decision for changes to species and habitats of local importance should consider:
3098 i) Concern due to population status;
3099 ii) Sensitivity to habitat manipulation;
3100 iii) Importance to the local community, and/or;
3101 iv) The Economic impact both positive and negative to the applicants property or
3102 surrounding property. Economic impacts are to be determined by a properly qualified
3103 individual or firm using industry standards.
3104 c) Nominated habitats, and habitats for species of local importance shall consider the
3105 following, and must include maps to illustrate the proposal:

- 3106 i) A seasonal range or habitat element which, if altered, may reduce the likelihood that
- 3107 the species will maintain or reproduce over the long term;
- 3108 ii) Areas of high relative density or species richness, breeding habitat, winter range, and
- 3109 movement corridors;
- 3110 iii) Habitat with limited availability or high vulnerability to alteration;
- 3111 iv) Whether these habitats are already identified and protected under the provisions of
- 3112 this or other county ordinances or state or federal law.
- 3113 d) Habitat management recommendations shall be included for use in the administration of
- 3114 this chapter.
- 3115

16D.06.05 Functional Properties

- 3117 1) Streams, lakes and ponds and wetlands, require a sufficient riparian area to support one or
- 3118 more of the following functional properties:
- 3119 a) Streambank and shore stabilization;
- 3120 b) Providing sufficient shade through canopy cover to maintain water temperatures at
- 3121 optimum levels and to support fish habitat;
- 3122 c) Moderating the impact of stormwater and meltwater runoff;
- 3123 d) Filtering solids, nutrients, and harmful substances;
- 3124 e) Surface erosion prevention;
- 3125 f) Providing and maintaining migratory corridors for wildlife;
- 3126 g) Supporting a diversity of wildlife habitat;
- 3127 h) Providing floodplain functions noted below;
- 3128 i) Contributing woody debris and organic matter to the aquatic environment;
- 3129 j) Providing altered climatic conditions different from upland areas.
- 3130 2) Stream channels generally support one or more of the following functional properties:
- 3131 a) Groundwater recharge and/or discharge;
- 3132 b) Water transport;
- 3133 c) Sediment transport and/or storage;
- 3134 d) Biogeochemical functions (see lakes, ponds and wetland functions below);
- 3135 e) Channel migration and creation of a dynamic habitat mosaic;
- 3136 f) Food web and habitat functions
- 3137 3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or
- 3138 lesser degree. Wetlands are often located along the margins of lakes and ponds, which often
- 3139 mixes the functions between the two. Lakes, ponds and wetlands generally provide one or
- 3140 more of the following functional properties:
- 3141 a) Biogeochemical functions, which are related to trapping and transforming chemicals and
- 3142 include functions that improve water quality in the watershed such as: nutrient retention
- 3143 and transformation, sediment retention, metals and toxics retention and transformation;
- 3144 b) Hydrologic functions, which are related to maintaining the water regime in a watershed,
- 3145 such as: flood flow attenuation, decreasing erosion, groundwater recharge;
- 3146 c) Food web and fish and wildlife habitat functions, which includes habitat for:
- 3147 invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.
- 3148 4) Floodplains generally provide one or more of the following functional properties:
- 3149 a) Floodwater storage and passage, including the movement of high velocity flood waters;
- 3150 b) Sediment storage and recruitment;
- 3151 c) Food web and habitat functions;

- 3152 d) Nutrient sink and/or source;
- 3153 e) Groundwater recharge and/or discharge.
- 3154 5) Wildlife habitat consists of the arrangement of food, water, cover, and space required to meet
- 3155 the biological needs of an animal. Different wildlife species have different requirements, and
- 3156 these requirements vary over the course of a year. Wildlife habitat generally includes one or
- 3157 more of the following functional properties:
- 3158 a) Reproduction and/or nesting;
- 3159 b) Resting and refuge;
- 3160 c) Foraging for food;
- 3161 d) Dispersal and migration.
- 3162 6) Some functions, as, for example, supporting a diversity of wildlife habitat, require larger
- 3163 areas which may not be achievable due to existing development and construction constraints.
- 3164 In these instances, adjustments to the minimum standards to accommodate such constraints
- 3165 may be necessary. However, a reduction of standards impairs the hydrologically related
- 3166 critical area's ability to support some functional properties. Reductions of standards should be
- 3167 offset by enhancement, restoration or preservation measures which replace lost functions or
- 3168 strengthen other functional properties if replacement of the lost functions is not possible.
- 3169

3170 **16D.06.06 Stream, Lake and Pond Typing System**

3171 For purposes of this title, Yakima County hereby adopts a stream, lake and pond typing system,

3172 for those features designated as critical areas in section 16D.06.03 (Hydrologically Related

3173 Critical Area Features), as follows:

- 3174 1) **Type 1 streams**, lakes and ponds are those waters , within their ordinary high water mark
- 3175 (OHWM), meeting the criteria as "shorelines of the state" and "shorelines of statewide
- 3176 significance" under RCW Chapter 90.58, but not including those waters' associated wetlands
- 3177 as defined in RCW Chapter 90.58. The current list of Shoreline waters, along with their
- 3178 specific shoreline environments are provided in Appendix B and C of this title;
- 3179 2) **Type 2 streams**, lakes and ponds are those surface water features which require protection
- 3180 due to the nature of their contributions to the functional properties listed in Section
- 3181 16D.06.05 , and are considered "Streams, Lakes and/or Ponds of Local Importance", as
- 3182 listed in Appendix A of this title. Habitats of local importance are designated using the
- 3183 process listed in section 16D.06.04 (Upland Wildlife Habitat and Habitats of Local
- 3184 Importance);
- 3185 3) **Type 3 streams** include all perennial streams within Yakima County not classified as Type 1
- 3186 or 2;
- 3187 4) **Type 4 streams** are all intermittent streams within Yakima County not classified as Type 1,
- 3188 2 or 3;
- 3189 5) **Type 5 streams** are all ephemeral streams within Yakima County not classified as Type 1, 2,
- 3190 3 or 4. Type 5 streams are not regulated.
- 3191 6) **Lakes and ponds** not designated as a shoreline that receive water from the OHWM of a Type
- 3192 2, 3, or 4 stream shall have the same surface water type as the highest stream type associated
- 3193 with it. Lakes or ponds not designated as a shoreline that are connected to a Type 1 stream
- 3194 shall be Type 3 ponds;
- 3195 7) **Natural lakes and ponds**, not designated as a shoreline, that do not receive water from the
- 3196 OHWM of a Type 1, 2, 3, or 4 stream shall be Type 3 ponds.
- 3197

3198 **16D.06.07 Wetland Rating System**

3199 Wetlands within Yakima County are defined in Section 16D.02.425 and are shown on the data
3200 maps referenced in Section 16D.06.08 (Maps). Most, but not all, of the wetlands within Yakima
3201 County occur near streams. All wetlands deserve a standard of protection, through the use of
3202 vegetative buffers, that is directly related to their contribution to the functional properties listed
3203 in Section 16D.06.05 (Functional Properties) and section 16D.07.04 (Wetland Functions and
3204 Rating). For regulatory purposes, wetlands are classified into four categories according to the
3205 Wetland Rating System found in section 16D.07.04(2) (Wetland Functions and Rating) of the
3206 wetland chapter.

3207
3208 **16D06.08 Maps**

3209 Certain fish and wildlife habitat and hydrologically related critical areas have been inventoried
3210 and are depicted on a series of paper and electronic maps maintained at the Yakima County
3211 Public Services Department. The best available graphic depiction of critical areas within the
3212 county will be used and continuously updated as reliable data becomes available. Maps may be
3213 both regulatory and non-regulatory in nature as described below:

3214 1) Regulatory maps are created with a defined process not necessarily corresponding directly
3215 with easily observable physical features such as streams and wetlands. These maps define
3216 the regulated critical areas. They are also formally adopted by the Board of Yakima County
3217 Commissioners and may only be changed by that body. Regulatory maps include the
3218 following:

3219 a) Any floodway or floodplain identified as a special flood hazard area by the Federal
3220 Insurance Administration in the Flood Insurance Study for Yakima County.

3221 2) Administrative maps are intended to indicate the approximate presence, location and/or
3222 typing of the subject critical area features, and act as a trigger for further investigation of the
3223 extent and characteristics of critical areas in a specific project location. These maps were
3224 created using reconnaissance level or better data. Given site-specific variations in
3225 reconnaissance level data, more detailed information developed at the site-specific level may
3226 be used to modify the maps as it is developed; the maps maintained by the Yakima County
3227 Public Services Department do not officially define the extent or characteristics of specific
3228 critical areas; rather the physical characteristics that exist “on the ground” define the
3229 boundaries of the regulated critical areas. Administrative maps include, but are not limited to
3230 the following;

3231 a) Wetlands;

3232 b) Streams;

3233 c) Channel migration zone;

3234 d) Species and Habitats of Local Importance - Mapped habitat areas for newly listed species
3235 will be generated as needed to supplement the existing maps. Habitats of local
3236 importance currently include:

3237 i) Type 2 Streams, lakes and/or ponds listed in Appendix A and described in section
3238 16D.06.06(2) above.

3239 e) Upland Wildlife Habitat Analysis Map;

3240 3) Other information sources – these are maps or other data sources, including special studies
3241 and management plans, which are neither produced or maintained by the Yakima County
3242 Public Services Department, which are used to indicate the presence of critical areas,

- 3243 importance or ranking of critical areas functions, or hazard or risk associated with critical
3244 areas. These information sources include, but are not limited to:
- 3245 a) Comprehensive Flood Hazard Management Plans and associated studies;
 - 3246 b) Soil Survey of Yakima County;
 - 3247 c) Natural resource management plans, such as local and federal Recovery Plans, or Forest
3248 Plans prepared by the US Forest Service;
 - 3249 d) Surficial Geologic Maps;
 - 3250 e) Historic and Current Aerial Photo Series;
 - 3251 f) Geohydraulic studies – geologic cross sections showing aquifers and confining units.
- 3252

3253 **16D.06.09 Upland Wildlife and Habitats of Local Importance Development Standards**

3254 Projects located within an Upland Wildlife Habitat Critical Area or Habitats of Local
3255 Importance, as designated in section 16D.06.04, shall meet the following standards listed below,
3256 rather than the development standards in 16D.06.10 through 16D.06.23 for Hydrologically
3257 Related Critical Areas, unless review is also needed for a Hydrologically Related Critical Area.

- 3258 1) Projects shall be designed using management recommendations established for the species or
3259 habitat by federal and state agencies, or those adopted for Species and Habitats of Local
3260 Importance by Yakima County. The department shall consider the extent such
3261 recommendations are used in its decision on the proposal, and may consider
3262 recommendations and advice from the agencies with expertise.
- 3263

3264 **General Development Standards**

3265 **16D.06.10 Prohibited Uses**

3266 The following uses and activities are prohibited within a designated hydrologically related
3267 critical area:

- 3268 1) Storage, handling, and disposal of material or substances that are dangerous or hazardous
3269 with respect to water quality and life safety;
- 3270 2) Confinement feeding operations including livestock feedlots and dairy confinement areas;
- 3271 3) The placement of mining tailings, spoilage, and mining waste materials, except for that
3272 associated with the mining of gravel;
- 3273 4) The draining or filling of a wetland, lake or pond, except as provided for in Section
3274 16D.06.21 (Filling);
- 3275 5) The removal and transport of material for fill outside of the stream corridor;
- 3276 6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds,
3277 and other similar waste disposal facilities. This provision does not include municipal
3278 wastewater lines or septic systems approved by a local or state agency with authority to
3279 permit such facilities;
- 3280 7) Solid waste disposal sites;
- 3281 8) Automobile wrecking yards;
- 3282 9) Fill for the sole purpose of increasing land area within the stream corridor;
- 3283 10) Those uses located within the floodway fringe that are listed in 16D.05.32.020 (new and
3284 expanded mobile or manufactured home parks);
- 3285 11) Those uses located within the floodway that are listed in 16D.05.36.020 (dwellings, filling
3286 wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and any
3287 use causing flood impacts.);

3288 12) Within Shoreline jurisdiction, those uses not allowed in particular shoreline environments as
3289 provided in section 16D.10.05 (Shoreline Land Use Table).
3290

3291 **16D.06.11 General Policies and Standards**

3292 The following policies and standards shall apply to any development, construction, or use carried
3293 out within a designated hydrologically related critical area:

- 3294 1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside
3295 edges of stream and/or wetland buffers shall be marked on the ground before any
3296 development, construction, or use is initiated.
- 3297 2) Existing riparian vegetation and any unique or sensitive vegetative species identified on the
3298 project site within the stream corridor shall be disturbed to the minimum extent possible.
- 3299 3) Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be
3300 disturbed to the minimum extent possible.
- 3301 4) Projects within the stream corridor shall be scheduled to occur at times and during seasons
3302 having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling
3303 recommendations from the appropriate state and/or federal agency may be considered.
- 3304 5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved
3305 by a local, state or federal agency, and transportation projects using stormwater manuals that
3306 are deemed equivalent to the Eastern Washington Stormwater Manual are exempt from the
3307 requirements below.
- 3308 a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to
3309 erosion of upland soils shall be confined to the minimum necessary to complete the
3310 authorized work and avoid increased sediment load.
- 3311 b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for
3312 periods when soils are the least vulnerable to erosion, compaction and movement unless
3313 suitable protective measures are used to prevent erosion.
- 3314 c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to
3315 ensure the minimal duration of exposed, unprotected soils.
- 3316 d) Increases in impervious surface area, compaction of soil, changes in topography, and
3317 other modifications of land within a stream corridor which are determined will
3318 permanently increase stormwater and meltwater runoff into stream channels, drainage
3319 ways, and conduits, shall provide on-site or off-site facilities for the detention, control,
3320 and filtration of such increases.
- 3321 e) The discharge point for controlled stormwater and meltwater runoff and other outfall
3322 shall be designed and constructed to avoid causing erosion through the use of native
3323 riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap,
3324 splash plates, or other demonstrably effective means.
- 3325 f) Matting or approved temporary ground cover shall be used to control erosion until natural
3326 vegetative ground cover is successfully established.
- 3327 6) Development, construction, and uses shall not directly or indirectly degrade surface water
3328 and groundwater through the introduction of nutrients, fecal coliform, toxins, and other
3329 biochemical substances.
- 3330 7) Prior to the approval of development, construction, or uses within a designated stream
3331 corridor, any existing source of biochemical or thermal degradation identified as originating
3332 on the project property or on contiguous properties of the same ownership shall be corrected.

- 3333 8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk
3334 products, application schedules, and other protective methodology to minimize the surface
3335 and subsurface transfer of biochemical materials into the stream corridor.
- 3336 9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other
3337 stream features shall not permanently alter or obstruct the natural volume or flow of surface
3338 waters.
- 3339 10) Development, construction, or uses within the stream corridor shall not alter or divert flood
3340 flows causing channel shift or erosion, increase or accelerate the flooding of upstream or
3341 downstream flood hazard areas, or otherwise threaten public or private properties.
- 3342 11) Wells located within a stream corridor shall be protectively lined and installed in a deep
3343 aquifer with an acceptable minimum hydraulic continuity with either surface waters or a
3344 shallow aquifer.
- 3345 12) Structures placed in close proximity to the outer edge of bends in stream channels identified
3346 as having a high potential to meander shall be located to minimize the hazard from stream
3347 undercutting and stream bank erosion stemming from potential future stream migration.
- 3348 13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration
3349 or relocation of a watercourse and evidence of such notification shall be submitted to the
3350 Federal Emergency Management Agency.
- 3351 14) Require that maintenance is provided within the altered or relocated portion of said
3352 watercourse so that the flood-carrying capacity is not diminished.
- 3353 15) Development, construction, or uses within the hydrologically related critical area that would
3354 contribute to the degradation of the functions and values shall be avoided or mitigated using
3355 mitigation sequencing as outlined in section 16D.03.10 (Mitigation Requirements).
- 3356 16) Development shall not obstruct, cut off, or isolate stream corridor features.
- 3357 17) Nothing in these regulations shall constitute authority of any person to trespass or in any way
3358 infringe upon the rights of private ownership.
- 3359 18) If archaeological resources are uncovered during excavation, developers and property owners
3360 shall immediately stop work and notify Yakima County, the Washington State Office of
3361 Archaeology and Historic Preservation and any affected indian tribes. Archaeological sites
3362 are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites
3363 and records), and development or uses that may impact such sites shall comply with WAC
3364 25-48 (Archaeological Excavation and Removal Permit).
- 3365 19) The provisions of Chapter 16D.05 of this title shall also apply to the development of lots and
3366 the placement, construction, or installation of structures in floodways and floodplains.
- 3367 20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of
3368 construction activities (excluding approved permanent use areas) shall be repaired at the
3369 completion of construction using reclamation standards in section 16D.06.23 (Reclamation).
- 3370 21) Projects located within the floodway must meet the requirements of 16D.05.36.010
3371 (Floodway – Permitted Uses).
- 3372 22) Projects within a floodplain must meet the requirements of section 16D.05.28. (Flood Hazard
3373 Protection Standards) and 16D.05.32 (Floodway Fringe Uses).
- 3374 23) Changing from an existing use or development which does not meet the provisions of this
3375 chapter to a new use shall be reviewed in light of the following:
- 3376 a) The conversion will demonstrably reduce impacts to stream corridor and other
3377 hydrologically related critical area features; and

- 3378 b) The conversion will restore and/or enhance the functional properties outlined in Section
 3379 16D.06.05 (Functional Properties).
- 3380 24) Additional General Shoreline Standards. The requirements below shall apply to all activities
 3381 within Shoreline jurisdiction.
- 3382 a) Individual projects or actions that, if continued as a pattern, would accumulatively result
 3383 in the degradation or impairment of the Shoreline environment, shall be avoided.
- 3384 b) Individual projects or actions shall provide for no net loss of Shoreline ecological
 3385 functions.
- 3386 c) Shoreline development shall not interfere with public access and enjoyment of any
 3387 nearby publicly owned land areas.
- 3388 d) Outdoor advertising signs must conform to size, spacing and lighting provisions of the
 3389 Washington State Scenic Vistas Act of 1971, where applicable.
- 3390 e) There shall be a thirty-five (35) foot maximum building height for all structures, except
 3391 that utility towers and poles, dams, concrete and asphalt batching plants, water treatment
 3392 towers, wastewater treatment facilities and bridges are not required to meet this standard,
 3393 and specific height limitations for residential structures are as follows:
- 3394 i) 25 feet above average grade level in the conservancy environment;
 3395 ii) 20 feet above average grade level in the natural environment.
 3396 iii) 25 feet above average grade level in the urban conservancy environment;
 3397 iv) 20 feet above average grade level in the floodway/channel migration zone.
- 3398 f) New development within Shoreline jurisdiction shall be located and designed to:
- 3399 i) avoid the need for future shore stabilization, to the extent feasible;
 3400 ii) avoid or, if that is not possible, to minimize the need for new and maintenance
 3401 dredging;
 3402 iii) assure that subdivision lots created will not require shore stabilization in order for
 3403 reasonable development to occur. The standards should be accomplished using
 3404 geotechnical analysis of the site and shoreline characteristics, as provided in section
 3405 16D.06.19(11) (Additional Shoreline Standards for Shore Stabilization);
 3406 iv) setback new development on steep slopes or bluffs sufficiently to ensure that shore
 3407 stabilization is unlikely to be necessary during the life of the structure, as
 3408 demonstrated by a geotechnical analysis, as provided in section 16D.06.19(11)
 3409 (Additional Shoreline Standards for Shore Stabilization).
 3410 v) New development that would require shore stabilization which causes significant
 3411 impacts to adjacent or down-current properties and shoreline areas shall not be
 3412 allowed.

3413
 3414 **Water Dependency Development Standards and Buffer Requirements**
 3415

3416 **16D.06.12 Use Classifications**

3417 For purposes of this chapter, the components of any development, construction, or use requiring
 3418 a critical area development authorization shall be classified as provided below, and shall conform
 3419 with the development standards applicable to the classification provided in 16D.06.13 through
 3420 16D.06.15 except for those listed in Section 16D.03.05 (Minor Activities Allowed without a
 3421 Permit or Exemption):

- 3422 1) Water Oriented Uses are one of the following three (3) categories of uses:

- 3423 a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching
 3424 facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland
 3425 crossings for roads and railroads, stream and wetland crossings for utilities, swimming
 3426 beaches, fishing sites, in-water or on-land shore stabilization structures, livestock
 3427 watering sites, and other uses that cannot exist in any other location and are dependent on
 3428 the water by reason of the intrinsic nature of their operations. This provision applies only
 3429 to the specific portion of a project that is demonstrably dependent upon the water or
 3430 shore.
- 3431 b) A water-related use is one not intrinsically dependent on a waterfront location but whose
 3432 economic viability is enhanced by a waterfront location either because it requires large
 3433 quantities of water, or because it provides services for water dependant uses and the
 3434 proximity to its customers makes such services less expensive and/or more convenient.
 3435 Examples would include thermal power plants, wastewater treatment plants, water
 3436 processing and treatment plants, support services for fish hatcheries or aquaculture, fly
 3437 shops and boat rental shops.
- 3438 c) A Water enjoyment use is a recreational or other use that facilitates public access within
 3439 Shoreline jurisdiction as a primary characteristic of the use, or provides for recreational
 3440 use or aesthetic enjoyment of the shoreline for a substantial number of people as a
 3441 general characteristic of the use; and which through location, design, and operation
 3442 ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline.
 3443 Within Shoreline jurisdiction the use must be open to the general public and the
 3444 shoreline-oriented space within the project must be devoted to the specific aspects of the
 3445 use that fosters shoreline enjoyment in order to qualify as a water-enjoyment use within
 3446 Shoreline jurisdiction. Examples include recreational uses orientated to the Shorelines
 3447 water features, and restaurants with water viewing.
- 3448 2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

3450 **16D06.13 Water-dependent Uses**

3451 The following provisions shall apply to water-dependent uses:

- 3452 1) Structures shall be clustered at locations on the water's edge having the least impact to the
 3453 surface water and shore.
- 3454 2) Use areas and structures which require direct shore locations shall be located and constructed
 3455 to minimize impacts to the shore area and the vegetative buffer specified in Section
 3456 16D.06.16 (Vegetative Buffers).
- 3457 3) Use areas and structures requiring direct shore locations shall minimize any obstruction or
 3458 impairment of normal public navigation of the surface water.

3460 **16D.06.14 Water-related Uses**

3461 The following provisions shall apply to the water-related uses:

- 3462 1) Structures and use areas shall be located as far landward from the ordinary high water mark
 3463 or wetland edge as is possible and still preserve the essential or necessary relationship with
 3464 the surface water.
- 3465 2) Structures and use areas shall not be located within the vegetative buffer specified in Section
 3466 16D.06.16 (Vegetative Buffers) except where existing development or the requirements
 3467 associated with the use make such a location unavoidable.

3469 **16D.06.15 Water-enjoyment and Non-water Oriented Uses**

3470 The following provisions shall apply to water enjoyment and non-water-oriented uses:

- 3471 1) Structures and use areas shall be set back so as not to be located within the vegetative buffer
 3472 specified in Section 16D.06.16 (Vegetative Buffers).
 3473 2) Construction abutting the vegetative buffer specified in Section 16D.06.16 (Vegetative
 3474 Buffers) shall be designed and scheduled to ensure there will not be permanent damage or
 3475 loss of the vegetative buffer.
 3476

3477 **16D.06.16 Vegetative Buffers**

3478 Establishment. There is hereby established a system of vegetative buffers that are necessary to
 3479 protect the functions and values of certain hydrologically related critical areas. Standard and
 3480 minimum buffers for streams, lakes, ponds and wetlands, based on a review of the best available
 3481 science, are listed in table 6-1 and 6-2

- 3482 1) Vegetative buffers shall be measured from the Ordinary High Water Mark (OHWM) for
 3483 streams, lakes and ponds, and from the wetland edge for wetlands, as identified in the field.
 3484 The width of the buffer shall be determined according to the stream or wetland type.
 3485 2) Buffer width may be reduced through the Variance (16D.03.22) permit process.
 3486 3) The minimum buffer widths listed in Tables 6-1 and 6-2 do not apply for Shoreline
 3487 jurisdiction.
 3488 4) The adequacy of these standard buffer widths presumes the existence of a relatively intact
 3489 native vegetation community in the buffer zone adequate to protect the stream functions and
 3490 values at the time of the proposed activity. If the vegetation is degraded, then no adjustment
 3491 to the buffer width should be granted and re-vegetation should be considered. Where the use
 3492 is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.
 3493
 3494

Table 6 – 1

Stream Type	Buffer Width standard/(minimum adjustment) See Section 16D.06.16, subsections 1-4.
Type 1 Shoreline streams, lakes and ponds	100'
Type 2 streams, lakes and ponds	75'/(25')
Type 3 streams (Perennial), lakes and ponds	50'/(25')
Type 4 streams (Intermittent), lakes and ponds	25'/(15')
Type 5 streams (Ephemeral)	No buffer standards Type 5 streams are not regulated.

3495
3496

Table 6-2

Type 1 Wetlands (standard/minimum)	Type 2 Wetlands (standard/minimum)	Type 3 Wetlands (standard/minimum)	Type 4 Wetlands (standard/minimum)
200'/25'	100'/25'	75'/25'	50'/25'

3497
3498
3499

Land Modification Development Standards

3500 **16D.06.17 Roads, Railroads and Parking**

3501 The following provisions shall apply to the location and construction of roads, railroads and
 3502 parking within a designated hydrologically related critical area, except that logging roads, being
 3503 a special category of roads, may be regulated as Forest Practices under this title (refer to those
 3504 relevant sections):

- 3505 1) Roads and railroads shall not be located within a designated stream corridor except where it is
 3506 necessary to cross the corridor, or where existing development, topography, and other
 3507 conditions preclude locations outside the stream corridor.
 - 3508 a) Construction of roadways across stream corridors shall be by the most direct route
 3509 possible having the least impact to the stream corridor.
 - 3510 b) Roadways that must run parallel to stream or wetland edges shall be along routes having
 3511 the greatest possible distance from stream or wetland and the least impact to the corridor.
 - 3512 c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate
 3513 stream corridor features.
- 3514 2) Material excavated from the roadway area to achieve the design grade shall be used as fill
 3515 where necessary to maintain grade, or shall be transported outside the corridor.
- 3516 3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause
 3517 displacement that would increase the elevation of flood waters such that it would cause
 3518 properties not in the floodplain to be flood-prone.
- 3519 4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the
 3520 stream corridor.
- 3521 5) Bridges and water-crossing structures shall not constrict the stream channel or impede the
 3522 flow of the ordinary high water, sediment and woody debris.
- 3523 6) The preservation of natural stream channels and drainage ways shall be preferred over the
 3524 use of culverts, where culverts are the preferred method, large, natural bottom culverts,
 3525 multi-plate pipes and bottomless arches are preferred.
- 3526 7) The alignment and slope of culverts shall parallel and match the natural flow of streams or
 3527 drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to
 3528 accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.
- 3529 8) Where fish are present, culverts shall be designed and constructed to specifications provided
 3530 through the Department of Fish and Wildlife or a comparable source of expertise.
- 3531 9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed
 3532 away during high water.
- 3533 10) Roads must be designed and constructed using established flood resistant and design and
 3534 construction methods when they may be subject to damage by flood waters.
- 3535 11) Roads and bridges within floodways must meet the requirements of section 16D.05.36.010
 3536 subsection (7) and (2).
- 3537 12) **Additional Shoreline Standards for Roads, Railroads and Parking** – the standards in this
 3538 section only apply to new uses within Shoreline jurisdiction.
 - 3539 a) Parking areas shall be located upland of the areas they serve.
 - 3540 b) Owners of two or more adjoining uses, structures or parcels of land may utilize jointly the
 3541 same parking area when the hours of operation do not overlap.
 - 3542 c) A Conditional Use Permit for roads, railroads or parking areas must demonstrate through
 3543 social, economic, environmental, and engineering studies that a shoreline location is the
 3544 most feasible of the available options.

3545
 3546 **16D.06.18 Utility Transmission Lines and Facilities**

3547 The following provisions shall apply to the location, construction, or installation of utility
3548 transmission lines and facilities (such as those for wastewater, water, communication, natural
3549 gas, etc.) within a designated hydrologically related critical area:

- 3550 1) Utility transmission lines and facilities shall be permitted within the stream corridor only
3551 where it is necessary to cross the corridor or where existing development, topography, and
3552 other conditions preclude locations outside the stream corridor.
 - 3553 a) Utility transmission lines and facilities across stream corridors shall be by the most direct
3554 route possible having the least impact to the stream corridor.
 - 3555 b) The construction of utility transmission lines and facilities within a stream corridor shall
3556 be designed and located to ensure minimum disruption to the functional properties
3557 specified under Section 16D.06.05 (Functional Properties) of this title.
- 3558 2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy
3559 replacement or repair with minimal disturbance to the stream corridor.
- 3560 3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four
3561 feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is
3562 greater, and for a similar depth below any associated floodway and floodplain to the
3563 maximum extent of potential channel migration as determined by hydrologic analysis.
- 3564 4) Wherever possible, new aboveground installations shall use available, existing bridge and
3565 utility locations and stream corridor crossings as opposed to creating new locations and
3566 stream corridor crossings.
- 3567 5) Aboveground electrical support towers and other similar transmission structures shall be
3568 located as far upland as is practical.
- 3569 6) Transmission support structures shall be located clear of high flood velocities, located in
3570 areas of minimum flood depth which require the least floodproofing, and shall be adequately
3571 floodproofed.
- 3572 7) Underground utility transmission lines shall be constructed so they do not alter, intercept or
3573 dewater groundwater patterns that support streams, wetlands and hyporheic flow.
- 3574 8) All new and replacement water supply systems and wastewater systems within a special
3575 flood hazard area must meet the requirements of 16D.05.28.010(b) (re: infiltration or
3576 discharge into or out of the system).
- 3577 9) Utility transmission lines within the Floodway Fringe shall meet the standards of
3578 16D.05.32.010 (2).
- 3579 10) Utility transmission lines within the Floodway shall meet the standards of 16D.05.36.010(2).
- 3580 11) **Additional Shoreline Standards for Utility Transmission Lines and Facilities-**
3581 The requirements below shall apply to all utility transmission lines and facilities within Shoreline
3582 jurisdiction. Utility services to individual projects undergoing Shoreline review, including those
3583 where the primary use may be in a different Shoreline environment than the utility service shall
3584 not require separate Substantial Development Permits for utility service installations, but are
3585 subject to all of the provisions in 16D.06.18 (Utility Transmission Lines and Facilities), except
3586 those listed below. Utility service to projects outside Shoreline jurisdiction are subject to normal
3587 Shoreline permitting, and are subject to all of the provisions in 16D.06.18 (Utility Transmission
3588 Lines and Facilities), except those listed below.
 - 3589 a) Where feasible utilities shall be placed underground unless such undergrounding would
3590 be economically or technically prohibitive.

- 3591 b) New utility facilities shall be designed and located to preserve the natural landscape, and
3592 minimize conflicts with present and planned land and shoreline uses, especially
3593 recreation, residential and public access.
- 3594 c) Expansion, updating, and maintenance of existing facilities is allowed but should be
3595 designed to be located to minimize the impacts as much as possible.
- 3596 d) Permit applications shall meet the following submittal review standards:
- 3597 e) Applications shall submit studies (social, economic, environmental, engineering, etc.) to
3598 demonstrate that a shoreline location is the most feasible of the available options.
- 3599 f) Applications to locate transmission lines shall submit a location plan that shows existing
3600 utility routes in the vicinity of the proposed transmission line. Failure of utility lines to
3601 follow existing routes, where feasible, shall cause denial of the application.
- 3602 g) Applications shall include a reclamation plan that provides for re-vegetation and
3603 protection of shoreline areas from erosion and siltation. A re-vegetation or erosion
3604 protection plan judged by the Administrative Official to be insufficient for the protection
3605 or restoration of the Shoreline environment shall cause denial of the application.
- 3606

3607 **16D.06.19 Shore Stabilization**

3608 The following provisions shall apply to shore stabilization projects:

- 3609 1) Shore stabilization projects shall be allowed only where there is evidence of erosion which
3610 clearly represents a threat to existing property, structures, or facilities, and which
3611 stabilization will not jeopardize other upstream or downstream properties.
- 3612 2) Stabilization projects shall be developed under the supervision of, or in consultation with,
3613 agencies or professionals with appropriate expertise.
- 3614 3) Stabilization projects shall be confined to the minimum protective measures necessary to
3615 protect the threatened property.
- 3616 4) The use of fill to restore lost land may accompany stabilization work, provided the resultant
3617 shore does not extend beyond the new ordinary high water mark, finished grades are
3618 consistent with abutting properties, a restoration plan is approved for the area, and the fill
3619 material is in compliance with Section 16D.06.21 (Filling).
- 3620 5) Stabilization projects shall use design, material, and construction alternatives that do not
3621 require high or continuous maintenance and which prevent or minimize the need for
3622 subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable
3623 debris are not to be used in shore stabilization projects.
- 3624 6) Alternative Preferences. Vegetation, berms, bioengineering techniques, and other
3625 nonstructural alternatives which preserve the natural character of the shore shall be preferred
3626 over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization.
3627 Riprap using rock or other natural materials shall be preferred over concrete revetments,
3628 bulkheads, breakwaters, and other structural stabilization.
- 3629 7) Applications to construct or enlarge dikes or levees shall meet the requirements of
3630 16D.05.36.010(6).
- 3631 8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the
3632 shore.
- 3633 9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or
3634 other solid construction methods.
- 3635 10) All new flood control projects shall define maintenance responsibilities and a funding source
3636 for operations, maintenance, and repairs for the life of the project.

- 3637 11) **Additional Shoreline Standards for Shore Stabilization** - The requirements below shall
3638 apply to all shore stabilization activities within Shoreline jurisdiction.
- 3639 a) Where feasible, dikes and levees shall be located outside of the floodway or channel
3640 migration zone of the river or stream in order to minimize any attendant increase in water
3641 stage and stream flow velocity over existing conditions.
- 3642 b) Rip-rapping and other shore stabilization measures shall be designed, located, and
3643 constructed in such a manner as to minimize the disruption of natural channel
3644 characteristics.
- 3645 c) Where a geotechnical analysis or report is required, it shall meet the provisions of
3646 16D.03.18(6) (flood hazard reduction and shore modification in shoreline jurisdiction).
- 3647 d) When structural flood hazard reduction and shore stabilization measures are necessary,
3648 they shall be located and designed to meet the provisions of 16D.03.18(6) (flood hazard
3649 reduction and shore modification in shoreline jurisdiction).
- 3650 e) Demonstration of necessity. New structural shore stabilization measures shall not be
3651 allowed except when necessity is demonstrated in the following manner:
- 3652 i) New or enlarged structural stabilization measures for an existing primary structure,
3653 including residences, shall not be allowed unless there is conclusive evidence,
3654 documented by a geotechnical analysis that the structure is in danger from shoreline
3655 erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or
3656 shoreline erosion itself, without a scientific or geotechnical analysis, is not
3657 demonstration of need. The geotechnical analysis should evaluate on-site drainage
3658 issues and address drainage problems away from the shoreline edge before
3659 considering structural shore stabilization.
- 3660 ii) Erosion control structures in support of new non-water-dependent development,
3661 including single-family residences, when all of the conditions below apply:
- 3662 (1) The erosion is not being caused by upland conditions, such as the loss of
3663 vegetation and drainage.
- 3664 (2) Nonstructural measures, such as placing the development further from the
3665 shoreline, planting vegetation, or installing on-site drainage improvements, are
3666 not feasible or not sufficient.
- 3667 (3) The need to protect primary structures from damage due to erosion is
3668 demonstrated through a geotechnical report. The damage must be caused by
3669 natural processes, such as tidal action, currents, and waves.
- 3670 iii) Erosion control structures in support of water-dependent development when all of the
3671 conditions below apply:
- 3672 (1) The erosion is not being caused by upland conditions, such as the loss of
3673 vegetation and drainage.
- 3674 (2) Nonstructural measures, planting vegetation, or installing on-site drainage
3675 improvements, are not feasible or not sufficient.
- 3676 (3) The need to protect primary structures from damage due to erosion is
3677 demonstrated through a geotechnical report.
- 3678 f) Erosion control structures to protect projects for the restoration of ecological functions or
3679 hazardous substance remediation projects pursuant to the Model Toxics Control Act
3680 (70.105D RCW) shall not be allowed unless there is conclusive evidence, documented by
3681 a geotechnical analysis that demonstrates that nonstructural measures such as planting
3682 vegetation, or installing on-site drainage improvements, is not feasible or not sufficient.

- 3683 g) An existing shore stabilization structure may be replaced with a similar structure if there
3684 is a demonstrated need to protect principal uses or structures from erosion. For purposes
3685 of this section standards on shore stabilization measures, "replacement" means the
3686 construction of a new structure to perform a shore stabilization function of an existing
3687 structure which can no longer adequately serve its purpose. Additions to or increases in
3688 size of existing shore stabilization measures shall be considered new structures under
3689 paragraph (g) above.
- 3690 i) Replacement walls or bulkheads shall not encroach waterward of the ordinary high-
3691 water mark or existing structure unless the residence was occupied prior to January 1,
3692 1992, and there are overriding safety or environmental concerns. In such cases, the
3693 replacement structure shall abut the existing shore stabilization structure.
- 3694 ii) Soft shore stabilization measures that provide restoration of shoreline ecological
3695 functions may be permitted waterward of the ordinary high-water mark.
- 3696

3697 **16D.06.20 Dredging and Excavation**

3698 The following provisions shall apply to dredging and excavation within a designated
3699 hydrologically related critical area:

- 3700 1) Dredging in surface waters shall be allowed only where necessary because of existing
3701 navigation needs, habitat restoration or improvement, maintenance or construction of water-
3702 dependent uses.
- 3703 2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the
3704 intended purpose or use.
- 3705 3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom
3706 materials shall be preferred over agitation forms of dredging.
- 3707 4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal
3708 of sediments and other dredge materials.
- 3709 5) Entries across shore and wetland edges to accomplish dredging or excavation shall be
3710 confined to the minimum area necessary to gain entry and shall be confined to locations with
3711 the least potential for site disturbance and damage.
- 3712 6) Dredging and excavation shall be scheduled at times having the least impact to fish
3713 spawning, nesting patterns, and other identified natural processes.
- 3714 7) Dredge spoils are also considered fill, and shall not be deposited within the stream except
3715 where such deposit is in accordance with approved procedures intended to preserve or
3716 enhance wildlife habitat, natural drainage, or other naturally occurring conditions.
- 3717 8) **Additional Shoreline Standards for Dredging and Excavation** - The requirements below
3718 shall apply to all dredging and excavation activities within Shoreline jurisdiction.
- 3719 a) All applications for Substantial Development Permits that include dredging shall supply a
3720 dredging plan that includes the following information:
- 3721 i) The quantity of material to be removed.
- 3722 ii) The method of removal.
- 3723 iii) Location of spoil disposal sites and measures that will be taken to protect the
3724 environment around them.
- 3725 iv) Plans for the protection and restoration of the shoreline environment during and after
3726 dredging operations.

3727 b) A dredging operation judged by the Administrator to be insufficient for protection or
3728 restoration of the shoreline environment shall cause denial of a Substantial Development
3729 permit.
3730

3731 **16D.06.21 Filling**

3732 The following provisions shall apply to filling activities within a designated hydrologically
3733 related critical area:

- 3734 1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction
3735 with water-dependent uses, or an approved reclamation plan under Section 16D.06. 23
3736 (Reclamation) or approved compensatory mitigation plan under Section 16C.03.17(13).
3737 2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in
3738 a manner consistent with the policies of this chapter.
3739 3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined
3740 to areas having the least impact to the stream corridor. Other alternatives should be preferred
3741 over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-
3742 rise methods such as piers, posts, columns, or other methods.
3743 4) Fill in floodplains shall meet the requirements of chapter 16D.05 (Flood Hazards).
3744 5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities.
3745 6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands
3746 shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade
3747 water quality.
3748 7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting
3749 patterns, and other identified natural processes.
3750 8) Fill and finished surface material shall require low maintenance, provide high resistance to
3751 erosion, and prevent or control the migration of sediments and other material from the fill
3752 area to surrounding water, shore, and wetlands, unless the Washington Department of Fish
3753 and Wildlife indicates other options are preferred.
3754 9) Projects that propose fill shall make every effort to acquire fill onsite (also known as
3755 compensatory storage) where appropriate.
3756 10) Fill should not obstruct, cut off, or isolate stream corridor features.
3757 11) **Additional Shoreline Standards for Fill** - The requirements below shall apply to all filling
3758 activities within Shoreline jurisdiction.
3759 a) Fill projects shall be evaluated for effects on total water surface reduction, navigation
3760 restriction, impediment to water flow and circulation, impediment to irrigation systems,
3761 reduction of water quality, and destruction of fish and wildlife habitat.
3762 b) Applications shall include a reclamation plan that provides for re-vegetation and
3763 protection of shoreline areas from erosion and siltation. A re-vegetation or erosion
3764 protection plan judged by the Administrative Official to be insufficient for the protection
3765 or restoration of the Shoreline environment shall cause denial of a Substantial
3766 Development Permit.
3767

3768 **16D.06.22 Commercial Mining of Gravels**

3769 The following provisions shall apply to the commercial mining of gravels within a designated
3770 hydrologically related critical area, except that mining may be regulated as Forest Practices
3771 under this title, (refer to those relevant sections):

- 3772 1) Prior to the authorization of a commercial gravel mining operation, the project proponent
3773 shall provide maps to scale which illustrate the following:
3774 a) The extent to which gravel excavation and processing will affect or modify existing
3775 stream corridor features, including existing riparian vegetation;
3776 b) The location, extent and size in acreage of any pond, lake, or feature that will be created
3777 as a result of mining excavation;
3778 c) The description, location, and extent of any proposed subsequent use that would be
3779 different than existing uses.
- 3780 2) Wherever feasible, the operations and any subsequent use or uses shall not cause permanent
3781 impairment or loss of floodwater storage, wetland, or other stream corridor features.
3782 Mitigation shall provide for the feature's replacement at equal value.
- 3783 3) Any surface mining allowed within the floodway shall meet the standards of
3784 16D.05.36.010(1).
- 3785 4) Except where authorized by Yakima County in consultation with the State Department of
3786 Fish and Wildlife and Department of Ecology, the following shall apply:
3787 a) The excavation zone for the removal of gravels shall be located a minimum of one
3788 hundred feet upland from the ordinary high water mark (OHWM) of the stream channel.
3789 b) Equipment shall not be operated, stored, refueled, or provided maintenance within one
3790 hundred feet of the OHWM.
3791 c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within
3792 one hundred feet of the OHWM.
- 3793 5) Mining proposals shall be consistent with the Washington Department of Natural Resources
3794 Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).
- 3795 6) **Additional Shoreline Standards for Industrial Mining of Gravels-** The requirements
3796 below shall apply to all mining activities within Shoreline jurisdiction.
3797 a) Applicants shall submit a mining and reclamation plan to the Administrator describing
3798 the proposed site, quantity of material to be removed, method of removal, and measures
3799 that will be taken to protect lakes and streams from siltation and sedimentation. A surface
3800 mining plan or a reclamation plan judged by the Administrative Official to be insufficient
3801 for protection or restoration of the shoreline environment shall cause denial of a
3802 Substantial Development Permit.
3803 b) Mining processing activities and stockpiles shall be sited in such a manner so as to
3804 minimize damage or loss resulting from flooding.
3805 c) Mining processing activities shall utilize existing and/or new vegetation where necessary
3806 to minimize visual and noise impacts.
3807 d) New mining and associated activities shall assure that proposed subsequent use of the
3808 mined property is consistent with the provisions of the environment designation and that
3809 reclamation of disturbed shoreline areas provides appropriate ecological functions
3810 consistent with the setting.

3811
3812 **16D.06.23 Reclamation**

3813 The following guidelines shall apply to the reclamation of disturbed sites resulting from
3814 development activities within a designated hydrologically related critical area:

- 3815 1) Development, construction, or uses shall include the timely restoration of disturbed features
3816 to a natural condition or to a stabilized condition that prevents degradation within the stream
3817 corridor.

- 3818 2) Large-scale projects or projects extending over several months shall be phased to allow
- 3819 reclamation of areas where work or operations have been completed.
- 3820 3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season,
- 3821 and other seasonal variables that influence restoration and recovery.
- 3822 4) Topography shall be finished to grades, elevations, and contours consistent with natural
- 3823 conditions in adjacent and surrounding areas.
- 3824 5) Where existing development and construction prevent the return of a site to its natural
- 3825 condition, sites may be finished to conditions comparable to surrounding properties provided
- 3826 suitable protective measures are used to prevent stream corridor degradation.
- 3827 6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the
- 3828 materials involved.
- 3829 7) The replacement or enhancement of vegetation within wetlands and required vegetative
- 3830 buffers shall use naturally occurring, native plant species. In other parts of the stream
- 3831 corridor, naturally occurring, native plant species shall be used, unless a showing of good
- 3832 cause acceptable to the Administrative Official is provided, in which case self-maintaining or
- 3833 low-maintenance plant species compatible with native vegetation shall be preferred over non-
- 3834 native and high-maintenance species.
- 3835

Shoreline Use Development Standards

3836
3837 **16D.06.24 Forest Practices** - The following provisions shall apply to Forest Practices, as
3838 defined, within Shoreline jurisdiction

- 3839 1) All federal forest practices or non-federal forest practices meeting the criteria below shall
- 3840 qualify for the exemption from development standards provided in 16D.03.13(2)(a). All
- 3841 forest practices qualifying for this provision shall demonstrate compliance by providing a
- 3842 copy of the federal approval or state Forest Practices Permit. Other forest practices must
- 3843 conform to all applicable development standards.
- 3844 a) harvest/treat at least 5 acres of forestland, or supporting such an operation;
- 3845 b) all harvesting w/in 200' of OHWM of Shoreline of Statewide Significance uses methods
- 3846 meeting RCW 90.58.150 (selective harvest), as amended;
- 3847 c) activities are not associated with a Conversion Option Harvest;
- 3848 d) approved under a forest practices permit;
- 3849 e) not associated with a harvest under a Class IV-General application to convert forest land
- 3850 to non-forestry use.
- 3851 2) Non-federal forest practices NOT meeting criteria (a), (b), or (c) above are designated as a
- 3852 Conditional Use.
- 3853 3) Non-federal forest practices NOT meeting criteria (d) above (Class 1 forest practices,
- 3854 activities not requiring DNR review, etc.) shall be reviewed as separate uses or activities.
- 3855 4) Non-federal forest practices NOT meeting criteria (e) above shall be reviewed as a new
- 3856 proposed use.
- 3857

3858 **16D.06.25 Commercial and Community Services** – The following provisions apply to any
3859 development, construction, or use of land for commercial and commercial service purposes
3860 within Shoreline jurisdiction.

- 3861 1) Developers shall insure that utility lines including electricity and communications will be
- 3862 underground, except where presence of bedrock or other obstructions make undergrounding

- 3863 impractical. Above ground lines in existence at the time of adoption of the Master Program
 3864 shall be undergrounded during normal replacement processes.
- 3865 2) Water oriented commercial and community services uses shall be designed to facilitate
 3866 public access to and enjoyment of nearby shoreline areas.
- 3867 3) Application for new commercial or community services shall demonstrate either:
 3868 a) How the use qualifies as a water oriented use and how facilities function as such, or;
 3869 b) That a non-water oriented use is part of a mixed use development that includes a water
 3870 dependant use, and that it will provide a significant public benefit towards meeting SMA
 3871 objectives, such as providing public access and ecological restoration, or;
 3872 c) That a non-water oriented use is setback from the OHWM or wetland edge by either a
 3873 public right-of-way or by 100 feet or more of a separate parcel.
- 3874 4) Boating facilities, marinas and extended mooring sites shall:
 3875 a) comply with the health, safety and welfare standards of State and local agencies for such
 3876 facilities;
 3877 b) be so located and designed as not to obstruct or cause danger to normal public navigation
 3878 of water bodies;
 3879 c) be restricted to suitable locations;
 3880 d) avoid or mitigate for aesthetic impacts;
 3881 e) mitigate special impacts of live-aboard vessels;
 3882 f) mitigate impacts to existing public access and navigation;
 3883 g) provide documentation of ownership or authorization to use associated water areas;
 3884 h) demonstrate that state and local regulations will be met. Agencies responsible for such
 3885 regulations shall be consulted as to the viability of the proposed design;
 3886 i) submit an operations and site plan demonstrating:
 3887 i) location and design of fuel handling and storage facilities to minimize accidental
 3888 spillage and protect water quality;
 3889 ii) proper water depth and flushing action for any area considered for overnight or
 3890 long-term moorage facilities;
 3891 iii) adequate facilities to properly handle wastes from holding tanks;
 3892 iv) that boating facilities are located only at sites with suitable environmental conditions,
 3893 shoreline configuration, and access;
 3894 v) adequate access, parking, and restroom facilities for the public. Such facilities should
 3895 be located away from the immediate water's edge.

- 3896
 3897 **16D.06.26 Industrial Activities** - The following provisions apply to any development,
 3898 construction, or use of land for industrial purposes within Shoreline jurisdiction:
 3899 1) Facilities and structures shall be designed and screened with vegetation to minimize
 3900 degradation of shoreline aesthetic qualities.
- 3901 2) Industries which have proven to be environmentally hazardous shall be discouraged from
 3902 locating along the shorelines.
- 3903 3) Industrial uses and redevelopment of industrial uses shall provide for environmental cleanup
 3904 and restoration in degraded or contaminated locations.
- 3905 4) Application for new industrial activities shall demonstrate either:
 3906 a) How the use qualifies as a water oriented use and how facilities function as such, or;

- 3907 b) That a non-water oriented use is part of a mixed use development that includes a water
3908 dependant use, and that it will provide a significant public benefit towards meeting SMA
3909 objectives, such as providing public access and ecological restoration, or;
3910 c) That a non-water oriented use is setback from the OHWM or wetland edge by either a
3911 public right-of-way or by 100 feet or more of a separate parcel.
3912

3913 **16D.06.27 Residential** - The following provisions apply to any development, construction,
3914 or use of land for residential purposes within Shoreline jurisdiction.

- 3915 1) Developers in the Urban, Natural and Urban Conservancy environments shall ensure that
3916 utility lines including electricity and communications will be underground, except where the
3917 presence of bedrock or other obstructions makes undergrounding impractical. Above ground
3918 lines in existence at the time of adoption of the Master Program shall be undergrounded
3919 during normal replacement processes.
3920 2) Plats of subdivisions containing land adjacent to publicly owned or controlled bodies of
3921 water shall allow for pedestrian access to such water bodies for residents of upland lots
3922 within the subdivision.
3923 3) Residential development and preliminary plats shall contain plans indicating how shore
3924 vegetation will be preserved and erosion controlled. A vegetation protection and/or erosion
3925 control plan judged by the Administrator to be insufficient for protection of the shoreline
3926 environment shall cause denial of an application.
3927 4) Subdivisions within the jurisdiction of the Master Program shall maintain an overall project
3928 density of one dwelling unit per one-half acre. Subsequent re-subdivision of any portion of
3929 the property contained in the original plat in order to increase density above that specified
3930 herein is prohibited.
3931

3932 **16D.06.28 Recreation** - The following provisions apply to any development, construction, or
3933 use of land for recreational purposes within Shoreline jurisdiction.

- 3934 1) Recreational activities in the Urban and Rural Environment must be compatible with existing
3935 or proposed uses in the area and must not create a noise, traffic, visual or similar problem.
3936 2) No permanent structures are allowed in the natural environment.
3937 3) The location, design, and operation of recreational facilities shall be consistent with the
3938 purpose of the environmental designation.
3939 4) Access to recreational areas should emphasize both areal and linear access. Linkage of
3940 shoreline parks and public access points by means of linear access should be encouraged.
3941 5) Different uses within a specific recreational facility must be compatible with each other.
3942 6) Commercial components of the use that are not explicitly related to the recreational operation
3943 must also conform to the Commercial use standards of section 16D.06.25 (Commercial and
3944 Commercial Services).
3945

3946 **16D.06.29 Agriculture** For Shoreline purposes, WAC 173-26-020 (Definitions) and WAC
3947 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural
3948 activities. To summarize, existing agricultural activities, including maintenance, repair and
3949 replacement of existing facilities, may continue as they historically have and may include
3950 changes in crops. New agricultural activities on land not currently in agricultural use are subject
3951 to shoreline review. New facilities (roads, buildings, etc.) are subject to shoreline review, or

- 3952 exemption when applicable. The following provisions apply to any development, construction,
3953 or use of land for agricultural purposes.
- 3954 1) Confinement feeding operations shall meet the following standards:
- 3955 a) Applicants shall submit a proposed site plan that indicates:
- 3956 i) Maximum number and type of livestock to be kept on the site;
- 3957 ii) Existing and proposed contour of the land and topographic features;
- 3958 iii) Groundwater profiles, streams and drainage ways;
- 3959 iv) Soil types;
- 3960 v) Existing and proposed building locations;
- 3961 vi) Waste disposal facilities including: Site runoff storage ponds, location of manure
3962 stockpiles, holding tanks and ponds, ultimate manure disposal sites;
- 3963 vii) Other use areas such as feed storage, animal movement routes and animal pens.
- 3964 b) A site plan judged by the Administrative Official to be insufficient for the protection of
3965 the shoreline environment shall cause denial of the application.
- 3966 2) New agricultural activities and facilities shall utilize best management practices established
3967 by the USDA Natural Resources Conservation Service or other similar agency.
- 3968 3) Rangeland livestock grazing may qualify for the exemption from Critical Areas development
3969 standards listed in 16D.03.13(2)(b).

3970
3971 **16D.06.30 Aquaculture** - The following provisions apply to any development, construction,
3972 or use of land for aquacultural purposes within Shoreline jurisdiction.

- 3973 1) All structures located within water bodies shall not preclude navigability of those waters at
3974 any time, and shall be clearly marked so as to provide no hazard to navigation on those
3975 waters.
- 3976 2) Aquaculture facilities shall avoid significant conflict with water-dependent uses, the
3977 spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic
3978 qualities.

3979
3980 **16D.06.31 Piers and Docks** - The following provisions apply to any development,
3981 construction, or use of land for piers and docks within Shoreline jurisdiction.

- 3982 1) Pier and dock construction shall be the minimum size necessary to meet the needs of the use.
- 3983 2) New pier or dock construction, excluding docks accessory to single-family residences must
3984 demonstrate that a specific need exists to support the intended water-dependent or public
3985 access use.
- 3986 3) New residential development of two or more dwellings must provide joint use or community
3987 dock facilities, when feasible, rather than allow individual docks for each residence.

**Chapter 16D.07
WETLANDS**

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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 is equivalent to the purpose and intent for Chapter 16D.06.01 (Purpose and Intent).

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

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.

16D.07.04 Wetland Functions and Rating

- 4033 1) Wetlands are unique landscape features that are the interface between the aquatic and
4034 terrestrial environments. Wetlands provide the following functions:
- 4035 a) Biogeochemical functions, which are related to trapping and transforming chemicals and
4036 include functions that improve water quality in the watershed such as: nutrient retention
4037 and transformation, sediment retention, metals and toxics retention, and transformation.
 - 4038 b) Hydrologic functions, which are related to maintaining the water regime in a watershed,
4039 such as: flood flow attenuation, decreasing erosion, groundwater recharge.
 - 4040 c) Food web and habitat functions, which includes habitat for: invertebrates, amphibians,
4041 anadromous fish, resident fish, birds, mammals.
- 4042 2) Wetlands shall be rated based on categories that reflect the functions and values of each
4043 wetland. Wetland categories shall be based on the criteria provided in the *Washington State
4044 Wetland Rating System for Eastern Washington*, revised August 2004 (Ecology Publication
4045 #04-06-15 - <http://www.ecy.wa.gov/pubs/0406015.pdf>) as determined using the appropriate
4046 rating forms contained in that publication. These categories are summarized as follows:
- 4047 a) Category I wetlands are those that represent a unique or rare wetland type, are more
4048 sensitive to disturbance than most wetlands, are relatively undisturbed and contain
4049 ecological attributes that are impossible or too difficult to replace within a human
4050 lifetime, and provide a high level of functions. Generally, these wetlands are not
4051 common and make up a small percentage of the wetlands within Yakima County. The
4052 following types of wetlands are Category I:
 - 4053 i) Alkali wetlands;
 - 4054 ii) Natural Heritage Wetlands - Wetlands that are identified by scientists of the
4055 Washington Department of Natural Resources Natural Heritage Program as high
4056 quality, relatively undisturbed wetlands, or wetlands that support state Threatened, or
4057 Endangered plant species;
 - 4058 iii) Bogs;
 - 4059 iv) Mature and old-growth forested wetlands with native slow growing trees, which
4060 include Western Red Cedar (*Thuja plicata*), Alaska Yellow Cedar (*Chamaecyparis
4061 nootkatensis*), pine species (mostly White pine - *Pinus monticola*), Western Hemlock
4062 (*Tsuga heterophylla*), Oregon White Oak (*Quercus garryana*) and Englemann Spruce
4063 (*Picea engelmannii*);
 - 4064 v) Forested wetlands with stands of Aspen;
 - 4065 vi) Wetlands scoring 70 points or more (out of 100) in the Eastern Washington Wetland
4066 Rating System.
 - 4067 b) Category II wetlands are difficult, though not impossible, to replace, and provide high
4068 levels of some functions. These wetlands occur more commonly than Category I
4069 wetlands, but still need a relatively high level of protection. Category II wetlands include:
 - 4070 i) Forested wetlands in the floodplains of rivers;
 - 4071 ii) Mature and old-growth forested wetlands with native fast growing trees, which
4072 include Alders (Red - *Alnus rubra*, Thin leaf - *A. tenuifolia*), Cottonwoods (Narrow
4073 leaf - *Populus angustifolia*, Black - *P. balsamifera*), Willows (Peach leaf - *Salix
4074 amygdaloides*, Sitka - *S. sitchensis*, Pacific - *S. lasiandra*); Aspen (*Populus
4075 tremuloides*); or Water Birch (*Betula occidentalis*)
 - 4076 iii) Vernal pools,
 - 4077 iv) Wetlands scoring between 51-69 points (out of 100) in the Eastern Washington
4078 Wetland Rating System.

- 4079 c) Category III wetlands are often smaller, less diverse and/or more isolated from other
4080 natural resources in the landscape than Category II wetlands. Category III wetlands
4081 include;
- 4082 i) vernal pools that are isolated, and
 - 4083 ii) wetlands with a moderate level of functions (scoring between 30 -50 points) in the
4084 Eastern Washington Wetland Rating System.
- 4085 d) Category IV wetlands have the lowest levels of functions, scoring less than 30 points in
4086 the Eastern Washington Wetland Rating System, and are often heavily disturbed. These
4087 are wetlands that should be able to be replaced, and in some cases be improved. These
4088 wetlands may provide some important functions, and also need to be protected.
- 4089 3) The wetland rating categories as described in section (2), above, shall be applied to projects
4090 which are submitted on or after the date of adoption of these provisions. The wetlands shall
4091 be rated as they exist on the day of project application submission, as the wetland naturally
4092 changes thereafter, or as the wetland changes in accordance with permitted activities.
4093 However, illegal modifications to wetlands which have been made since the original
4094 adoption of the Critical Areas Ordinance (YCC Title 16A 1995) shall not be considered when
4095 rating the wetland. Information regarding the original condition of illegally modified
4096 wetlands that can not be discerned from aerial photographs or other reliable information
4097 sources, which is needed to complete the *Eastern Washington Wetland Rating System* data
4098 sheets, shall use the highest appropriate points value within each missing data field of the
4099 rating sheet to complete the rating.

4100
4101 **16D.07.05 Compensatory Mitigation Requirements** – Projects that propose to compensate
4102 for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory
4103 mitigation for alterations to wetlands shall provide no net loss of wetland functions and values,
4104 and must be consistent with the Mitigation Plan Requirements in section 16D.03.17 (13)
4105 (Compensatory Mitigation Plans). The following guidance documents were developed to assist
4106 applicants in meeting the regulations and requirements.

- 4107 1) Compensatory mitigation plans must be consistent with *Guidance on Wetland Mitigation in*
4108 *Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and*
4109 *Proposals* or as revised (Washington State Department of Ecology, U.S. Army Corps of
4110 Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology
4111 publication number 04-06-013B -
4112 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).
- 4113 2) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent
4114 with “*Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing*
4115 *Wetlands – Appendix 8-D- Section 8-D3*” or as revised (Washington State Department of
4116 Ecology. Publication number 05-06-008 -
4117 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).

4118
4119 **16D.07.06 Wetland Mitigation Banks**

- 4120 1) Credits from a wetland mitigation bank may be approved for use as compensation for
4121 unavoidable impacts to wetlands when:
 - 4122 a) The bank is certified under RCW 90.84 and its administrative rules WAC 173-700;
 - 4123 i) The Administrative Official determines that the wetland mitigation bank provides
4124 appropriate compensation for the authorized impacts; and

- 4125 ii) The proposed use of credits is consistent with the terms and conditions of the bank's
4126 certification.
- 4127 2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios
4128 specified in the bank's certification.
- 4129 3) Credits from a certified wetland mitigation bank may be used to compensate for impacts
4130 located within the service area specified in the bank's certification. In some cases, bank
4131 service areas may include portions of more than one adjacent drainage basin for specific
4132 wetland functions.

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Chapter 16D.08
GEOLOGICALLY HAZARDOUS AREAS

Sections:

- 16D.08.01 Purpose and Intent
- 16D.08.02 Mapping and Designation
- 16D.08.03 Geologically Hazardous Areas Protection Approach
- 16D.08.04 Supplemental Development Review Procedure for Geologically Hazardous Areas
- 16D.08.05 General Protection Requirements
- 16D.08.06 Critical Area Report – Geologic Assessment

16D.08.01 Purpose and Intent

- 1) Geologically hazardous areas include those areas susceptible to erosion, sliding, earthquake or other geological events. They pose a threat to the health and safety of the citizens of Yakima County when incompatible development is sited in areas of significant hazard. Some risks due to geologic hazards might be capable of mitigation through engineering, design, or modified construction standards so the level of risk is reduced to an acceptable level. However, when mitigation is not feasible, development within geologically hazardous areas is best avoided.
- 2) The purposes of this chapter are to:
 - a) Minimize risks to public health and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas;
 - b) Maintain natural geological processes while protecting existing and new development;
 - c) Establish review procedures for development proposals in geologically hazardous areas.

16D.08.02 Mapping and Designation

- 1) Geologically hazardous areas are areas that are susceptible to one or more of the following types of hazards, based on WAC 365-190-080 (4)(b) through (h):
 - a) Erosion hazards;
 - b) Landslide hazards, which in the Yakima County inventory includes:
 - i) oversteepened slope hazards;
 - ii) alluvial fan/flash flooding hazards;
 - iii) avalanche hazards, and;
 - iv) stream undercutting hazards;
 - c) Seismic hazards (referred to below as earthquake hazards);
 - d) Volcanic hazards;
- 2) The approximate location and extent of Erosion hazard areas are shown on the County’s critical area map titled “Erosion Hazard Areas of Yakima County”. Erosion hazard areas were identified by using the “Soil Survey of Yakima County Area, Washington” and the “Soil Survey of Yakima Indian Reservation Irrigated Area, Washington, Part of Yakima County”. The analysis utilized the general soil map unit descriptions of severe and very severe hazard of water erosion.
- 3) The approximate location and extent of Geologically Hazardous Areas are shown on the County’s critical area map titled “Geologically Hazardous Areas of Yakima County”. The following geologically hazardous areas, with the corresponding map code in parenthesis, are

4178 mapped and classified using the stated criteria based on WAC 365-190-080(4) (b) through
4179 (h):

4180 a) **Landslide hazard areas (LS)** – These include places where landslides, debris flows, or
4181 slumps have already occurred. Where sliding is presumed to have occurred within 10,000
4182 years or less is shown as High Risk (LS3) on the map. Slides thought to be older than
4183 10,000 years but still capable of movement are shown as Intermediate Risk (LS2). Areas
4184 where slides are absent are unlabeled and combined with other Low Risk areas.

4185 i) **Oversteepened slope hazard areas (OS)** - These include areas with slopes steep
4186 enough to create potential problems. High risk areas (OS3) have a high potential to
4187 fail, and include slopes greater than 40%, and consist of areas of rock fall, creep, and
4188 places underlain with unstable materials. Intermediate Risk areas (OS2) are less likely
4189 to fail but are still potentially hazardous. This category also includes some slopes
4190 between 15 and 40%. Low Risk areas, unlikely to fail, are unlabeled and combined
4191 with other Low Risk categories.

4192 ii) **Alluvial fan/flash flooding hazard areas (AF)** - These are areas where flash
4193 flooding can occur, and are often associated with inundation by debris from flooding.
4194 They include alluvial fans, canyons, gullies, and small streams where catastrophic
4195 flooding can occur. They do not include all areas where flash flooding may occur
4196 with Yakima County. Flooding may also occur in larger streams and rivers, but these
4197 are depicted in the "Flood Insurance Study for the Unincorporated Areas of Yakima
4198 County," dated March 2, 1998, with accompanying Flood Insurance Rate Maps
4199 (FIRMs) and Flood Boundary and Floodway Maps, and any amendments which may
4200 thereafter be made by the Federal Emergency Management Agency, rather than on
4201 the Geologically Hazardous Areas Map. High Risk areas (AF3) are those most likely
4202 to experience flooding. These areas usually involve larger drainage areas, easily
4203 eroded sediments, and steeper gradients. Intermediate Risk areas (AF2) have some
4204 potential for flash flooding but involve smaller drainages and flatter slopes. Low Risk
4205 areas are where flash flooding is unlikely, are unlabeled and combined with other
4206 Low Risk areas on the map.

4207 iii) **Avalanche risk hazard areas (AR)** - Areas of avalanche hazards are limited (within
4208 the mapped boundaries) to areas near the Cascade Crest. High Risk areas (AF3) are
4209 those in areas of high snowfall where avalanche scars are visible and slopes are steep
4210 to moderately steep. These areas could also be rated OS3. Intermediate Risk areas
4211 (AF2) are usually adjacent to AF3 areas but where vegetation is still in place and
4212 slopes are moderate. AF2 and AF3 areas are mapped on the basis of aerial
4213 photography and observed scars. Climatic data (snowfall, wind direction, etc) are
4214 necessary for more detailed mapping. Low Risk areas, where avalanches are unlikely,
4215 are unlabeled and combined with other Low Risk geologic hazards.

4216 iv) **Stream undercutting hazard areas (SU)** - These areas are confined to banks near
4217 main streams and rivers where undercutting of soft materials may result. High Risk
4218 areas (SU3) include steep banks of soft material adjacent to present stream courses.
4219 Intermediate Risk areas (SU2) are banks along the edge of a flood plain but away
4220 from the present river course. Low Risk areas are unlabeled and combined with other
4221 Low Risk areas on the maps.

4222 b) **Earthquake activity hazard areas (EA)** - Recorded earthquake activity in Yakima
4223 County is mostly marked by low magnitude events and thus low seismic risk. One

4224 exception is an area along Toppenish Ridge where Holocene faulting may have produced
4225 earthquakes of as much as magnitude 7. Zones of surficial fault scarps are shown on High
4226 Risk areas (EA3) while areas adjacent to the scarps are assigned Intermediate Risk
4227 (EA2). The rest of the county is Low Risk, are unlabeled, and combined with other low
4228 risk hazards.

4229 c) **Suspected geologic hazard areas (SUS)** – These are areas for which detailed geologic
4230 mapping is lacking but preliminary data indicate a potential hazard. No risk assessment
4231 (1-2-3) is given for these areas. Most are probably OS or LS hazards.

4232 d) **Risk unknown hazard areas (UNK)** - In these areas geologic mapping is lacking or is
4233 insufficient to make a determination. All of these areas are associated with other
4234 classified geologic hazards, and most are located in remote areas of Yakima County.

4235 4) **Volcanic Hazard Areas** are not mapped but are defined as areas subject to pyroclastic
4236 (formed by volcanic explosion) flows, lava flows and inundation by debris flows, mudflows
4237 or related flooding resulting from volcanic activity. Volcanic Hazard Areas in Yakima
4238 County are limited to pyroclastic (ash) deposits. While Yakima County contains a portion of
4239 Mt Adams and is in close proximity to Mt Rainer, and Mt St. Helens, the threat of volcanic
4240 hazards is minimal and limited to ash deposition. The more devastating effects of volcanic
4241 activity such as lava flows, and lahars (volcanic landslide or mudflow) are not possible due to
4242 intervening ridges. No specific protection requirements are identified for volcanic hazard
4243 areas.

4244 5) This chapter does not imply that land outside mapped geologically hazardous areas or uses
4245 permitted within such areas will be without risk. This chapter shall not create liability on the
4246 part of Yakima County, any officer, or employee thereof for any damages that result from
4247 reliance on this chapter or any administrative decision lawfully made hereunder.
4248

4249 **16D.08.03 Geologically Hazardous Areas Protection Approach**

4250 1) **Erosion hazard areas** – Protection measures for erosion hazard areas will be accomplished
4251 by implementing the regulatory standards for erosion and drainage control required under
4252 YCC Title 13 (Building Code). Any future stormwater program erosion control measures
4253 that may be formally adopted by the Board of County Commissioners shall supersede YCC
4254 Title 13 erosion control requirements. Standards to meet YCC Title 13 requirements can be
4255 met by the application of the Best Management Practices (BMPs) in the Eastern Washington
4256 Stormwater Manual (WDOE Publication number 04-10-076) or equivalent manual adopted
4257 by Yakima County, or any other approved manual deemed appropriate by the Building
4258 Official, including but not limited to applicable Natural Resource Conservation Service
4259 (NRCS) Field Office Technical Guide (FOTG) BMP's and the Washington State Department
4260 of Transportation Highway Runoff Manual. Application of the Environmental Protection
4261 Agency (EPA) "Construction Rainfall Erosivity Waiver" is at the discretion of the Building
4262 Official on a case by case basis.

4263 2) **Landslide hazard areas** - Protection measures for landslide hazard areas will be
4264 accomplished through the review process of 16D.08.04 (Development Review Procedure for
4265 Geologically Hazardous Areas), by implementing the development standards of 16D.08.05
4266 (General Protection Requirements), and by implementing the appropriate sections of the
4267 International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16
4268 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

- 4269 3) **Alluvial fan/flash flooding hazard areas** - Protection measures for alluvial fan/flash
4270 flooding hazard areas will be accomplished through the review process of 16D.08.04
4271 (Development Review Procedure for Geologically Hazardous Areas), by implementing the
4272 development standards of 16D.08.05 (General Protection Requirements), and by
4273 implementing the appropriate sections of the International Building Code (IBC) as adopted in
4274 YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations;
4275 Appendix J Grading; and, Flood Resistant Design and Construction (ASCE-24-98)).
- 4276 4) **Stream undercutting hazard areas** - Protection measures for stream undercutting hazard
4277 areas will be accomplished by Critical Areas review for flood hazards, streams, and
4278 Shoreline jurisdiction, in addition to implementing the appropriate sections of the
4279 International Building Code (IBC) as adopted in YCC Title 13 (Flood Resistant Design and
4280 Construction (ASCE-24-98)).
- 4281 5) **Avalanche hazard areas** - Protection measures for avalanche hazard areas will be
4282 accomplished through the review process of 16D.08.04 (Development Review Procedure for
4283 Geologically Hazardous Areas), by implementing the development standards of 16D.08.05
4284 (General Protection Requirements), and by implementing the appropriate sections of the
4285 International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16
4286 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- 4287 6) **Oversteepened slope hazard areas** - Protection measures for oversteepened slope hazard
4288 areas will be accomplished through the review process of 16D.08.04 (Development Review
4289 Procedure for Geologically Hazardous Areas), by implementing the development standards
4290 of 16D.08.05 (General Protection Requirements), and by implementing the appropriate
4291 sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently
4292 Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- 4293 7) **Earthquake/Seismic hazard area protection standards** - Protection measures for
4294 earthquake/Seismic hazard areas will be accomplished by implementing the appropriate
4295 sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently
4296 Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- 4297 8) **Suspected geologic hazard areas and Risk unknown hazard areas** - Protection measures
4298 for suspected geologic hazard areas and risk unknown hazard areas will be accomplished
4299 through the review process of 16D.08.04 (Development Review Procedure for Geologically
4300 Hazardous Areas), by implementing the development standards of 16D.08.05 (General
4301 Protection Requirements), and by implementing the appropriate sections of the International
4302 Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design;
4303 Section 18 Soils and Foundations; and, Appendix J Grading).

4304
4305 **16D.08.04 Development Review Procedure for Geologically Hazardous Areas**

- 4306 1) The Administrative Official shall make a determination of hazard to confirm whether the
4307 development or its associated facilities (building site, access roads, limits of grading/
4308 excavation/ filling, retaining walls, septic drainfields, landscaping, etc.):
- 4309 a) are located within a mapped geologically hazardous area;
 - 4310 b) are abutting, or adjacent to a mapped geologically hazardous area and may result in or
4311 contribute to an increase in hazard, or pose a risk to life and property on or off the site;
 - 4312 c) are located within a distance from the base of an adjacent landslide hazard area equal to
4313 the vertical relief of said hazard area;
 - 4314 d) are located within the potential run-out path of a mapped avalanche hazard.

- 4315 2) Developments that receive an affirmative determination of hazard by the Administrative
 4316 Official under (1) above, must conduct a geologic hazard report as provided in 16D.03.18(4)
 4317 (Supplemental Report Requirements – Geologically Hazardous Areas), which may be part of
 4318 a geo-technical report required under additional review below.
- 4319 a) If the geologic hazard report determines no hazard exists or that the project area lies
 4320 outside the hazard, then no geologic hazard review is needed.
- 4321 b) The Administrative Official is authorized to waive further geologic hazard review for
 4322 oversteepened slope hazards on a determination that the hazards identified in the geologic
 4323 hazard report will be adequately mitigated under grading or construction permits.
- 4324 3) Developments that receive an affirmative determination of hazard, but do not meet the
 4325 provisions of paragraph 2a or 2b above, must:
- 4326 a) Obtain a Critical Areas Development Authorization under 16D.03 (Application and
 4327 Review Procedures);
- 4328 b) Submit a geo-technical report that is suitable for obtaining the grading and construction
 4329 permits that will be required for development. The geo-technical report should
 4330 incorporate the submitted assessment, include the design of all facilities and include a
 4331 description and analysis of the risk associated with the measures proposed to mitigate the
 4332 hazards, ensure public safety, and protect property and other critical areas, and;
- 4333 c) Be consistent with the General Protection Requirements of section 16D.08.05 (General
 4334 Protection Requirements).

4335
 4336 **16D.08.05 General Protection Requirements**

- 4337 1) Grading, construction, and development and their associated facilities shall not be located in
 4338 a geologically hazardous area, or any associated setback for the project recommended by the
 4339 geo-technical report, unless the applicant demonstrates that the development is structurally
 4340 safe from the potential hazard, and that the development will not increase the hazard risk
 4341 onsite or off-site.
- 4342 2) Development shall be directed toward portions of parcels, or parcels under contiguous
 4343 ownership, that are at the least risk of hazard in preference to lands with higher risk, unless
 4344 determined to be infeasible in the geo-technical report.
- 4345 3) The geo-technical report shall recommend methods to ensure the information and education
 4346 about the hazard and any recommended buildable area for future landowners over the long
 4347 term.
- 4348 4) The applicable requirements of grading and construction permits for developments in
 4349 hazardous areas must be included in the development proposal and geo-technical report.

Chapter 16D.09
CRITICAL AQUIFER RECHARGE AREAS (CARA)

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Sections:

- 16D.09.01 Purpose and Intent
- 16D.09.02 Mapping
- 16D.09.03 Protection Approach
- 16D.09.04 References

16D.09.01 Purpose and Intent

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

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

16D.09.02 Mapping

- 1) **Mapping Methodology** – The CARA are depicted in the map titled “Critical Aquifer Recharge Areas of Yakima County”. The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology “Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances” (Publication #97-30). Yakima County has determined this

4396 analysis to be the best available science at the time the analysis was conducted. This analysis
4397 was at a coarse, countywide scale, rather than a site specific assessment. The approximate
4398 location and extent of critical aquifer recharge areas are shown on the map, and are to be
4399 used as a guide for the county, project applicants and/or property owners, and may be
4400 updated as more detailed data becomes available. The CARA map estimates areas of
4401 moderate, high and extreme susceptibility to contamination, in addition to wellhead
4402 protection areas. To characterize hydrogeologic susceptibility of the recharge area to
4403 contamination, the GIS analysis used the following physical characteristics:
4404 a) Depth to ground water;
4405 b) Soil (texture, permeability, and contaminant attenuation properties);
4406 c) Geologic material permeability;
4407 d) Recharge (amount of water applied to the land surface, including precipitation and
4408 irrigation).

4409 2) **Wellhead Protection Areas** - The CARA map includes those Wellhead Protection Areas for
4410 which the County has maps. Wellhead Protection Areas are required for all Class A public
4411 water systems in the State of Washington. The determination of a wellhead protection area is
4412 based upon the time of travel of a water particle from its source to the well. Water purveyors
4413 collect site specific information to determine the susceptibility of the water source to surface
4414 sources of contamination. Water sources are ranked by the Washington State Department of
4415 Health with a high, moderate or low susceptibility to surface contamination. Wellhead
4416 protection areas are defined by the boundaries of the ten (10) year time of ground water
4417 travel, in accordance with WAC 246-290-135. For purposes of this chapter, all wellhead
4418 protection areas shall be considered highly susceptible.
4419

4420 **16D.09.03 Protection Approach**

- 4421 1) Maps shall be used only as an informational resource to communicate with applicants on
4422 potential problems with meeting the applicable laws on a particular site. The maps indicate
4423 that high susceptibility areas tend to be located in the valley bottoms and follow along
4424 floodplain and stream corridors, with the extreme susceptibility locations being largely
4425 within floodplains, and along streams and wetlands.
- 4426 2) Land uses are subject to many existing, federal, state, local, or tribal laws regarding the
4427 handling of substances that may contaminate CARAs. Additional regulatory standards by
4428 Yakima County are not needed. Disclosure, educational information, and coordination of
4429 existing laws during existing review processes can accomplish the requirement to protect
4430 Critical Aquifer Recharge Areas. Consequently, Yakima County's protection of CARA shall
4431 be accomplished through normal project permit review under various Yakima County Codes,
4432 especially the stream protection standards in Chapter 16D.06 (Fish and Wildlife Habitat and
4433 the Stream Corridor System), including section 16D.06.10 (Prohibited Uses); the Shoreline
4434 Use Table in section 16D.10.05 and YCC Title 13 (Building and Construction Code), which
4435 provides detailed construction, use, and fire/life-safety standards for the storage and handling
4436 of dangerous and hazardous substances to a greater extent than most existing state and
4437 federal laws.
- 4438 3) The Administrative Official shall develop and maintain a list of the relevant laws noted
4439 above. This list shall be informational, and is intended to be used in coordination with
4440 development permit review. This list shall be periodically reviewed and updated so as to

- 4441 provide the most comprehensive list possible to inform project applicants of the requirements
4442 of other agencies.
- 4443 4) The Administrative Official shall also develop and maintain a table of land uses with the
4444 potential of being subject to the relevant laws noted above. The table shall be generated and
4445 maintained using the intent stated in 16D.09.01(4) (Purpose and Intent).
- 4446 5) The Administrative Official and Building Official shall cooperatively develop questionnaires,
4447 to be filled out by new development permit applicants, which comprehensively establish the
4448 potential use, storage, and handling methods within the project for substances that have the
4449 potential to contaminate groundwater. The questionnaires are intended to ensure full
4450 application of existing building and construction codes related to such substances in order to
4451 forestall new regulations.
- 4452 6) The Administrative Official and Building Official shall develop technical assistance and
4453 information materials to assist landowners and developers with understanding and meeting
4454 relevant existing federal, state, and local laws relating to CARAs.

**Chapter 16D.10
SHORELINES**

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Sections:

- 16D.10.01 Intent and Purpose
- 16D.10.02 Restriction as Affecting Fair Market Value of Property
- 16D.10.03 Shoreline Jurisdiction
- 16D.10.04 Shoreline Environments
- 16D.10.05 Shoreline Land Use Table

16D.10.01 Purpose and Intent

The SMP regulations are intended to carry out the responsibilities imposed on Yakima County by the Shoreline Management Act (RCW 90.58) and its Administrative Rules (WAC 173-18, WAC 173- 20, WAC 173- 22, WAC 173- 26 and WAC 173- 27) insofar as regulations can, and the adoption of these regulations does not remove other responsibilities imposed by the Act. The purpose of the Shoreline Master Program Regulations are to:

- 1) Promote reasonable and appropriate use of the shorelines that will protect the public and private interest;
- 2) Protect against adverse effects to the public health, the land, its vegetation and wildlife and the waters and their aquatic life within Yakima County;
- 3) Protect public rights of navigation;
- 4) Recognize and protect private property rights consistent with public interest;
- 5) Maintain or re-create a high quality of environment along the shorelines;
- 6) Preserve and protect fragile natural resources and culturally significant features;
- 7) Increase public access to publicly owned areas of the shorelines where increased use levels are desirable;
- 8) Protect public and private properties from adverse effects of improper development in hazardous shorelines areas;
- 9) Recognize and protect statewide interest;
- 10) Give preference to uses that result in long-term over short-term benefits, and;
- 11) Provide for no net loss of ecological functions from both individual permitted development and individual exempt development.

16D.10.02 Restriction as Affecting Fair Market Value of Property

The restrictions imposed by these regulations shall be considered by the Yakima County Assessor in establishing the fair market value of the property pursuant to RCW 90.58.290.

16D.10.03 Shoreline Jurisdiction

Pursuant to the authority of RCW 90.58.030(2)(f) and WAC 173-22-040(2-3), the jurisdictional limits of the Shoreline Master program within Yakima County for areas that are subject to these regulations, are listed below. Yakima County has developed maps to generally depict the extent of Shoreline jurisdictional boundaries for all Shorelines within the county. These maps are for informational and illustrative purposes only and are not regulatory in nature. Where such maps are not available or do not correspond with physical features on the ground, jurisdictional boundaries shall be controlled by the criteria listed below, WAC 173-22, and the Act itself. It is understood when the maps and the actual physical features do not correspond, the physical features will dictate the extent of the jurisdictional boundaries. It is understood that the actual

- 4501 physical features may change. The physical features will dictate the extent of the Shoreline
4502 jurisdictional boundaries. Shoreline jurisdictional area shall include:
- 4503 1) Those Shoreline lakes, ponds and stream lengths identified in Appendix B and C of this title.
 - 4504 2) Subject to Subsection 7 below, wherever the "floodway" has been established by a flood
4505 insurance study prepared by the Federal Emergency Management Agency (FEMA),
4506 shorelines jurisdiction shall be the floodway plus 200 feet, measured on a horizontal plane, or
4507 the 100-year floodplain, whichever is lesser.
 - 4508 3) Subject to Subsection 7 below, whenever the 100-year floodplain has been identified by a
4509 flood insurance study prepared by the Federal Emergency Management Agency but where no
4510 "floodway" has been identified, shorelines jurisdiction shall be the 100-year floodplain
4511 boundary or 200 feet, measured in a horizontal plane, from the ordinary high water mark,
4512 whichever is greater.
 - 4513 4) Whenever there are no detailed floodplain or floodway studies, shoreline jurisdiction shall be
4514 200 feet, measured on a horizontal plane, from the ordinary high water mark.
 - 4515 5) Where a Channel Migration Zone (CMZ) has been identified, and extends beyond the
4516 jurisdiction established by sub-section (2) above, jurisdiction shall extend to the extent of the
4517 CMZ, but not beyond the limits of sub-section (3).
 - 4518 6) Those wetlands and river deltas which are in proximity to and either influence or are
4519 influenced by the Shorelines. This influence includes, but is not limited to, one or more of the
4520 following: periodic inundation, location within a floodplain, or hydraulic continuity;
 - 4521 7) Under no circumstances shall shoreline jurisdiction be less than 200 feet, measured on a
4522 horizontal plane, from the ordinary high water mark of the Shoreline water body.

4523 4524 **16D.10.04 Shoreline Environments**

4525 The following Shoreline Environments listed below are used as a system of categorizing
4526 shoreline areas according to management objectives and the character of the shoreline. The
4527 Shoreline Environments are based on the goals and policies found in the comprehensive plan (at
4528 the time of this update *Plan 2015 - Volume 1 - Natural Settings – NS 7 Shorelines, Goals NS*
4529 *7.04 through 7.22*). Six (6) environments are hereby established, as listed below. The location
4530 and boundaries of the Shoreline Environments are hereby established, as provided in Appendix B
4531 and C. It is understood that the actual physical features may change. The physical features shall
4532 dictate the extent of the environmental boundaries. These changes are hereby incorporated by
4533 reference into this document so that the Environments described in Appendix C will shift with
4534 river changes. Shoreline Environments are shown on the map entitled "Shoreline Environment
4535 Map of Yakima County". This map is for informational and illustrative purposes only and is not
4536 regulatory in nature.

- 4537 1) **Urban Environment.** This environment is characterized by high intensity land uses, high
4538 land values, major public and private capital investments, and/or few biophysical
4539 development limitations where intensive development is desirable or tolerable. The
4540 management objective is one of optimum future utilization of land and public investment. In
4541 view of the intensity of present and future development and consequent population densities,
4542 there is a correspondingly high requirement for open space and access to the water in this
4543 environment. The basic principle in an Urban Environment is oriented toward quality of
4544 development in harmony with the shoreline. The Urban Environment should insure optimum
4545 utilization of shorelines occurring within urbanized areas by providing for public access, and

- 4546 by managing development so that it enhances and maintains the shorelines for a multiplicity
 4547 of uses.
- 4548 2) **Rural Environment.** This environment is characterized by agricultural and recreational
 4549 uses, moderate land values, moderate public and private capital investment (roads, utilities,
 4550 etc.), and/or some biophysical development limitations. The management objectives are to
 4551 protect agricultural land, maintain open space, and provide for recreational uses compatible
 4552 with agricultural production.
- 4553 3) **Conservancy Environment.** This environment is characterized by very low intensity land
 4554 uses primarily related to natural resources use and diffuse recreational development,
 4555 relatively low land values, relatively minor public and private capital investment, and/or
 4556 relatively major biophysical development limitations. Management objectives are oriented
 4557 toward establishing a balance between sustained-yield natural resource utilization and low
 4558 density recreational uses in this environment, with restriction of development in hazardous
 4559 areas.
- 4560 4) **Natural Environment.** This environment is characterized by severe biophysical limitations,
 4561 presence of some unique natural, historic or archeologic features intolerant of intensive
 4562 human use, and/or its value is retained only in its natural condition. Management objectives
 4563 are oriented toward preserving unique features, restricting activities that may degrade the
 4564 actual or potential value of this environment, and severely restricting development in
 4565 hazardous areas.
- 4566 5) **Urban Conservancy Environment** – This environment is characterized by low intensity
 4567 land uses primarily related to public access, diffuse recreational development, and relatively
 4568 major biophysical development limitations. This environment should protect and restore
 4569 ecological functions of open space, floodplain and other sensitive lands where they exist in
 4570 urban and developed settings, while allowing a variety of compatible uses. The Urban
 4571 Conservancy environment designation should be assigned to shoreline areas appropriate and
 4572 planned for development that is compatible with maintaining or restoring the ecological
 4573 functions of the area and that lie in incorporated municipalities, urban growth areas, or
 4574 commercial or industrial rural areas of more intense development.
- 4575 6) **Floodway/Channel Migration Zone Environment** – This environment is characterized by
 4576 deep/fast floodwaters and a shifting channel, and is the most hazardous Shoreline area. The
 4577 Floodway/Channel Migration Zone environment should protect the water areas, islands and
 4578 associated overflow channels found within designated floodways, and mapped channel
 4579 migration areas. This environment acknowledges the river’s need to move within parts of its
 4580 floodplain, and emphasizes the preservation of the natural hydraulic, geologic and biological
 4581 functions of the county’s shorelines that are constrained by severe biophysical limitations.

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 4583 **16D.10.05 Shoreline Land Use Table**

4584 Table 16D.10.05 lists the uses and activities for each Shoreline Environmental designation that
 4585 are allowed by Substantial Development Permit and/or Conditional Use Permit, or are
 4586 prohibited. Such uses shall be processed in accordance with chapter 16D.03 (Permit and Review
 4587 Procedures). This table does not change those situations of when this title does not apply to a
 4588 development (16D.01.05 Applicability), or when a use or activity listed as needing a Substantial
 4589 Development permit may qualify for an exemption instead (16D.03.07 Exemptions).
 4590 Definitions for some uses are provided in chapter 16D.02. The provisions in Table 16D.10.05

- 4591 apply to specific common uses and types of development only to the extent they occur within
 4592 shoreline jurisdiction. Symbols in the table have the following meanings:
 4593 • (S) means a Substantial Development Permit is required;
 4594 • (C) means a Conditional Use Permit is required;
 4595 • (X) means the use is prohibited;
 4596 • (N/A) means the entry is not applicable and the entry in the Activity column provides
 4597 information to redirect the reader to another Activity.
 4598 •

Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.						
GENERAL						
Activities listed in 16D.06.10 Prohibited Uses	X	X	X	X	X	X
AGRICULTURE Also see Section 16D.03.07 for common exemptions.						
Agriculture, including accessory agricultural structures, but excluding grazing.	S	S	C	X	C	S
Grazing, also see special grazing provisions in 16D.01.05(e) (Applicability) and 16D.03.13(2)(b) (Development Authorization) for development standards.	S	S	S	S	S	S
Confinement Feeding Operations(CFO)	X	C	X	X	X	X
Ag. Related Industry (Feed Mills, Processing/Packing Plants, Storage Facilities, etc)	C	C	X	X	X	C
AQUACULTURE						
Rearing	C	S	C	X	C	C
Processing	C	S	X	X	X	C
Packing & storage	C	S	X	X	X	C
FOREST PRACTICES UNDER STATE PERMIT Also see special forest practices provisions in section 16D.01.05 for applicability, section 16D.02 for definitions, 16D.03.07 for exemptions, and section 16D.03.13(2)(a) for development standards.						
All federal forest practices or non-federal forest practices meeting the criteria below: 1. harvest/treat at least 5 acres of forestland, or supporting such an operation, 2. all harvesting w/in 200' of OHWM of Shoreline of Statewide Significance uses	S	S	S	C	S	S

Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.						
methods meeting RCW 90.58.150 (selective harvest) 3. activities are not associated with a Conversion Option Harvest 4. approved under a WDNR Forest Practices Permit 5. not associated with a harvest under a Class IV-General application to convert forest land to non-forestry use						
Non-federal forest practices NOT meeting criteria (1), (2), or (3) above	C	C	C	C	C	C
Non-federal forest practices NOT meeting criteria (4) above (Class 1 forest practices, activities not requiring WDNR review, etc.) shall be reviewed as separate uses or activities.	N/A	N/A	N/A	N/A	N/A	N/A
Non-federal forest practices NOT meeting criteria (5) above shall be reviewed as the new proposed use	N/A	N/A	N/A	N/A	N/A	N/A
MINING						
Surface Mining	C	C	C	X	X	C
Underground Mining	X	X	X	X	X	X
Mining for habitat restoration	S	S	S	S	S	S
ARCHEOLOGICAL						
Interpretive center	S	C	C	C	X	S
Restoration of historic structures	S	S	C	C	C	S
Archeological excavation	C	C	C	C	C	C
RESIDENTIAL USE Also see Section 16D.03.07 for common exemptions.						
Cabin (see definition; 800 sq. ft.) or Single Improved RV Site where other single family residences are not permitted.	X	X	X	C	C	S
Single Family Residence, including: - Family Home Services - Accessory Apartment - Mobile Home for Aged/Infirm Relative (or equivalent uses listed in the zoning ordinance)	S	S	S	X	X	X
Duplex	S	S	X	X	X	X
Multi-family	C	X	X	X	X	X

Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.						
Rooming & boarding houses	C	X	X	X	X	X
Fraternity or sorority houses	C	X	X	X	X	X
Manufactured Home Park or subdivision outside floodplain	C	X	X	X	X	X
Manufactured Home Park or subdivision w/in Floodplain	X	X	X	X	X	X
RV park with units remaining year-round – review as mobile home park	N/A	N/A	N/A	N/A	N/A	N/A
RV park with units NOT remaining year-round – see recreational use section, Moderate Intensity.	N/A	N/A	N/A	N/A	N/A	N/A
Houseboats & over-water residential uses	X	X	X	X	X	X
COMMERCIAL AND COMMUNITY SERVICE USES						
Large Commercial uses (more than 1/2 acre of use area) of a Water Oriented nature, including commercial boating facilities, marinas, and extended moorings. Boat Launches shall be treated as a Recreational use.	C	C	C	X	X	C
Small Commercial uses (1/2 acre or less of use area) of a Water Oriented nature	S	S	C	X	X	S
Non-Water Oriented Commercial Uses, except for instances below	X	X	X	X	X	X
Non-Water Oriented Uses, when set back from OHWM or wetland edge by either a public right of way or 100'+ of a separate parcel	C	C	C	X	X	C
Non-Water Oriented Uses in a mixed use project that includes a Water Dependant Commercial, Industrial, Aquaculture, or Recreational Use	C	C	C	X	X	C
Events and temporary uses involving public interest (see definition) that do not impair the shoreline environment Note: Definition to be added to Administrative Sections	C	C	C	C	C	C
INDUSTRIAL						
Water Oriented Uses	C	C	X	X	X	X
Non-Water Oriented Uses, except for instances below	X	X	X	X	X	X
Non-Water Oriented Uses, when set back from the OHWM or wetland edge by either a	C	C	X	X	X	X

Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
public right of way or 100' + of a separate parcel						
Non-Water Oriented Uses in a mixed use project that includes a Water Dependant Commercial, Industrial, Aquaculture, or Recreational Use	C	C	X	X	X	X
RECREATION Also see 16D.01.05 (Applicability) and 16D.01.07 (Exemptions) for uses that may not require permits or review.						
Commercial components of the use that are not explicitly related to the recreation operation must also conform to the Commercial section of this table.	N/A	N/A	N/A	N/A	N/A	N/A
Indoor Recreation – Reviewed as Commercial use; see that section of table.	N/A	N/A	N/A	N/A	N/A	N/A
Boat Launches. Other boating facilities and marinas are reviewed as Commercial Uses.	C	C	C	C	C	C
Commercial Motorized Boat Recreation Tour Routes (related facilities are reviewed as Commercial Uses and boating facilities)	C	C	C	C	C	C
State owned recreation facilities and ecological study areas.	S	S	C	C	C	S
Outdoor Recreation of a Non-Water Oriented nature (sports complex, organized sport fields, golf course)	C	C	C	X	X	C
Hi-Intensity Outdoor Recreation of a Water Oriented nature (urban area parks, white water parks, etc.)	S	C	C	X	C	S
Moderate-Intensity Outdoor Recreation of a Water Oriented nature (use areas with minor structures and improvements, such as camp grounds, picnic facilities, hiking trails, swimming beaches, fishing sites, nature/history interpretive centers); RV park/camping with units NOT remaining year-round is included in this category (also see residential RV uses)	S	S	S	X	C	S
Low-Intensity Outdoor Recreation of a Water Oriented nature (unimproved use areas, such as hiking or nature trails, primitive camping areas, swimming beaches, etc.); an unimproved Personal Camping and Recreation Site is included in this category.	S	S	S	C	S	S
Very-Low-Intensity Recreation (wildlife viewing, scenic vistas, fishing, hunting,	N/A	N/A	N/A	N/A	N/A	N/A

Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.						
rafting, walking, etc.) See section 16D.01.05 (Applicability) for activities not subject to this title.						
Events and temporary uses involving public interest (see definition) that do not impair the shoreline environment.	C	C	C	C	C	C
TRANSPORTATION & PARKING						
Access roads serving permitted uses	S	S	S	C	C	S
Highways & freeways	C	C	C	C	C	C
Railways	C	C	C	C	C	C
Transportation maintenance facilities	C	C	C	C	X	C
Parking for authorized use – reviewed with authorized use.	N/A	N/A	N/A	N/A	N/A	N/A
Park and Ride lots and similar stand alone parking facilities	X	X	X	X	X	X
UTILITIES						
Utility Services accessory to individual projects undergoing Shoreline review – review w/ project	N/A	N/A	N/A	N/A	N/A	N/A
Utility services to projects outside Shoreline jurisdiction	S	S	S	S	S	S
Land/air/water monitoring station.	S	S	S	S	S	S
Utility Transmission Lines, except as noted below.	X	X	X	X	X	X
Utility Transmission Lines on shorelands, where no other feasible option is available.	C	C	C	C	C	C
Production and Processing Facilities of a Water Oriented nature, including power generation, water and wastewater treatment facilities.	C	C	C	C	C	C
Production and Processing Facilities of a Non-Water Oriented nature, except as noted below.	X	X	X	X	X	X
Production and Processing facilities of a Non-Water Oriented nature, where no other feasible option is available.	C	C	C	C	C	C
Storage/collection of garbage cans/dumpsters for individual use	S	S	S	S	S	S
Solid waste transfer station/drop box	C	C	C	X	X	X

Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.						
Storage/disposal of solid waste, including landfills, sewage sludge, and agricultural waste. For existing uses, see section 16D.03.26 Non-Conforming Uses and Facilities.	X	X	X	X	X	X
SIGNS – Note: signs must also conform to the local sign ordinance						
Blinking or revolving signs	X	X	X	X	X	X
Signs obstructing views of shorelines and scenic vistas from public rights of way	X	X	X	X	X	X
On-premise for authorized use.	S	S	S	S	S	S
Off-premise (except temporary and information signs)	S	X	X	X	X	X
Temporary signs (election signs; sale, rental, or lease signs on real estate; etc.) are not considered development.	N/A	N/A	N/A	N/A	N/A	N/A
Information signs (directional, landmark, trail marker, etc.)	S	S	S	S	S	S
IN-STREAM STRUCTURES Also see 16D.01.07 (Exemptions) for uses that may not require permits.						
In-stream elements for shore stabilization, roads/bridges, habitat restoration, piers/docks/marinas, and fill are reviewed as those activities.	N/A	N/A	N/A	N/A	N/A	N/A
Construction that does not impound water (but may include stream bed manipulation); including flow gauging stations	S	S	S	S	C	C
Construction that impounds water or increases the height of impounded water	C	C	C	C	X	C
PIERS AND DOCKS Also see section 16D.03.07 Exemptions for uses that may not require a permit.						
Pier/dock (including for over-water structures), except for instances below	X	X	X	X	X	X
Pier/dock for Water Dependant Commercial, Industrial, Aquaculture, or Recreational Use; or public access; or a single family residence facility to access watercraft	S	S	C	C	C	S
DREDGING						
Dredging (including obtaining minerals, aggregate, or landfill material), except for instances below	X	X	X	X	X	X

Activity	Environments					
	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.						
Dredging for: - Water Dependant use - public access	C	C	C	C	C	C
Dredging to modify channels or basins (excluding maintenance) for existing navigation uses	S	S	S	S	C	S
Dredging for habitat restoration	S	S	S	S	S	S
FILLING & DREDGE MATERIAL DISPOSAL						
Fill within the OHWM, except for instances below	X	X	X	X	X	X
Fill within the OHWM for: - Water Dependant use - public access - expansion of existing transportation system of state-wide significance - beach nourishment - dredge material placement for habitat restoration project	C	C	C	C	C	C
Fill (non-dredged) within the OHWM for habitat restoration	S	S	S	S	S	S
Fill outside the OHWM, except for instances below	X	X	X	X	X	X
Fill outside the OHWM for site development of an approved use	S	S	S	C	C	S
SHORE STABILIZATION Also see section 16D.03.07 Exemptions, for activities that may not require permits.						
Non-Structural Stabilization Measures (revegetation, wood debris placement, sediment supplementation, bio- engineering, etc.). Also see section 16D.03.07(15) for the restoration exemption.	S	S	S	S	S	S
On-Land Stabilization Structures, except for instances below	X	X	X	X	X	X
On-Land Stabilization Structures (bulkheads, retaining walls, dikes, levees, rip-rap, etc.) demonstrating necessity per 16D.06.19(11)(e). Also see section 16D.03.07 for residential and bulkhead exemptions.	C	C	C	C	C	C
In-Water Stabilization Structures, except for instances below	X	X	X	X	X	X

Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section 16D.01.05 (Applicability) to see if this Title applies to the project. Review section 16D.03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section 16D.03.26 Non-Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
In-Water Stabilization Structures (breakwaters, jetties, groins, weirs, bank barbs, etc.) demonstrating necessity per 16D.06.19(11)(e) for: - Water Dependant use - public access - specific public purposes - in support of bank stabilization	C	C	C	C	C	C
In-Water Stabilization Structures for habitat restoration demonstrating necessity per 16D.06.19(11)(e). Also see section 16D.03.07(15) for the restoration exemption.	S	S	S	S	S	S

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**Title 16D Appendix A
Designated Type 2 Stream Corridors**

The following stream reaches within Yakima County are designated critical areas under the Critical Areas Ordinance.

1. BACHELOR CREEK: From source at Ahtanum Creek (SEC13-TWP12N-RGE16 EWM) downstream to its mouth at Ahtanum Creek (SEC1-TWP12N-RGE18E).
2. COTTONWOOD CANYON CREEK: From the south line of SEC32-TWP13N-RGE17E, downstream to mouth at Wide Hollow Creek (SEC36-TWP13N-RGE17E).
3. COTTONWOOD CREEK (WENAS): From boundary of the L.T. Murray Wildlife Recreation Area (South line, SEC35-TWP15N-RGE18E) downstream to mouth at Wenas Creek (SEC12-TWP14N-RGE18E).
4. COWICHE CREEK, NORTH FORK: Commencing at the north line of SEC36-TWP14N-RGE15E, downstream to its confluence with the South Fork of Cowiche Creek (SEC3-TWP13N-RGE17E).
5. HATTON CREEK: From its source at Ahtanum Creek (SEC18-TWP12N-RGE17) downstream to its confluence with Ahtanum Creek (SEC8-TWP12N-RGE18E).
6. LITTLE RATTLESNAKE CREEK: From the Wenatchee National Forest boundary (SEC30-TWP15N-RGE15E) downstream to mouth at Rattlesnake Creek (SEC3-TWP15N-RGE15N).
7. WIDE HOLLOW CREEK: 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).
8. WENAS CREEK: From the east line of SEC5-TWP14N-RGE18E downstream to its mouth at the Yakima River (SEC18-TWP14N-RGE19E).

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**Title 16D Appendix B
 YAKIMA COUNTY SHORELINE LAKES, AND PONDS AND THEIR
 ENVIRONMENTAL DESIGNATIONS**

This list is based on information from “Lakes of Washington Volume II Eastern Washington”. 1973 (Water Supply Bulletin No. 14. Washington Department of Ecology). It is possible that some lakes could have been missed through the inventory process. If lakes are found in Wilderness areas or the Yakama Nation Closed Area, they shall receive a Natural Shoreline Environmental designation. If lakes are found in areas with a majority of public ownership they shall receive a Conservancy Shoreline Environmental designation. All other lakes shall receive a Rural Shoreline Environmental designation. If new lakes are created that meet the Shoreline designation criteria in RCW 90.58.030(2)(c), they shall receive a rural designation. Note that Yakima County has no jurisdiction within the Yakama Nation Closed Area, and very little jurisdiction within Federal ownership. Shoreline Environments are listed in the Designation column, except that those parts of any lake and its Shoreline jurisdiction lying within a stream Floodway/CMZ Stream Shoreline Environment shall also be designated Floodway/CMZ. Lakes identified with a “#” are partially or completely within the Floodway/CMZ Stream Shoreline Environmental designation.

Shoreline Environmental Designation Table Legend:

U -Urban	R -Rural
C -Conservancy	UC -Urban Conservancy
N -Natural	T#N - Township#North R#E - Range#East
* - Shoreline of Statewide Significance as defined in per RCW 90.58.030(2)(e), generally being lakes 1000 acres or greater.	
Shoreline designations where Yakima County has little or no jurisdiction.	
† USFS Wilderness Area	
‡ Federal Ownership	
⊗ Yakama Nation Closed Area	
◇ Yakama Nation Trust Lands that are not under Yakima County jurisdiction.	

	LAKES	LOCATION	DESIGNATION
4664			
4665	Byron Ponds	Sec.12, T8N R23E	Conservancy
4666	Horseshoe Pond	Sec. 21, 22, T9N, R22E	Conservancy#
4667	Morgan Pond	Sec. 25, T9N, R22E	Conservancy#
4668	Horseshoe Lake◊	Sec. 2526,35,36, T9N, R22E	Rural#
4669	Giffin Lake	Sec. 22,23,26,27 T9N, R22E	Conservancy#
4670	Freeway Lake	Sec. 7, T13N, R19E	Urban Conservancy#
4671	Wenas Lake	Sec. 2, T15N, R17E	Conservancy
4672	Priest Rapids Pool‡*	Sec. 2/3, T13N, R23E	Conservancy
4673	Rimrock Lake‡*	T13/14, R12, 13, 14E	Conservancy
4674	Clear Lake	Sec. 1/2/11/12, T13N, R12E	Conservancy
4675	Lake Aspen	Sec. 11/14, T13N, R18E	Urban
4676	Willow Lake	Sec. 11/14, T13N, R18E	Urban
4677	Big Elton Pond	Sec. 31, T14N, R19E	Rural
4678	Bumping Lake‡*	T16N, R12E	Conservancy
4679	Unnamed Lake (CB-E-301)	Sec. 35, T12N, R19E	Conservancy#
4680	Unnamed Lake (CB-E-300)	Sec. 21, T11N, R20E	Rural
4681	Unnamed Lake (PS-E-311)	Sec. 17, T11N, R20E	Rural#
4682	Mt. Adams Lake☼	Sec. 20, T9N-R12E	Natural
4683	Two Lakes – Upper☼	Sec. 8 T10N- R11E	Natural
4684	Two Lakes – Lower☼	Sec. 15 T10N- R11E	Natural
4685	Fish Lake☼	Sec. 7, T10N- R12E	Natural
4686	Mud Lake◊	Sec. 27, T10N- R18E	Conservancy
4687	Howard Lake☼	Sec. 31, T11N- R12E	Natural
4688	Leech Lake‡	Sec. 2, T13N- R11E	Conservancy
4689	Twin Sisters lakes†	Sec. 3, T14N- R12E	Natural
4690	Pear Lake†	Sec. 3, T14N- R12E	Natural
4691	Dog Lake‡	Sec. 32, T14N- R12E	Conservancy
4692	Cougar Lake †	Sec. 4, T15N- R11E	Natural
4693	Dewey Lake †	Sec. 30, T16N- R11E	Natural
4694	Swamp Lake †	Sec. 33, T16N- R11E	Natural
4695	Slaughterhouse Lake◊	Sec. 25, 26 T9N – R22E	Rural#
4696	Unnamed Lake◊	Sec. 20 T9N – R22E	Rural#
4697	Unnamed Lakes X4◊	Sec. 6/7/8/17/18, T9N, R22E	Rural#
4698	Buchanan Lake	Sec. 20 T13N, R19E	Urban#
4699	Unnamed Lake◊ (Parker Pits)	Sec. 20, T12N, R19E	Rural#
4700	Unnamed Lake (Selah Gravel Pits)	Sec. 30, 31, T14N, R19E	Rural#
4701		Sec. 6, T13N, R19E	
4702	Unnamed Lake (Grandview WWTP x3)	Sec. 2, T8N, R23E	Rural
4703	Unnamed Lake◊ (Graham & Morris pits)	Sec. 32 T11N R20E	Rural
4704	Unnamed Lake (Cowiche Reservoir)	Sec. 11 T14N R16E	Rural
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Title 16D Appendix B
YAKIMA COUNTY SHORELINE STREAMS AND THEIR ENVIRONMENTAL DESIGNATIONS

Introduction

This appendix is not intended to be easily understood by the casual reader, but is intended to accurately create maps and resolve jurisdictional questions. The list of streams is based on data from “Determination of Upstream Boundary Points on Southeastern Washington Streams and Rivers Under Requirements of the Shoreline Management Act of 1971 (2003. Water-Resources Investigations Report 03-4042. US Geological Survey prepared in cooperation with the Washington Department of Ecology). It is possible that some Shorelines could have been missed through the inventory process. If Shorelines are found in Wilderness areas or the Yakama Nation Closed Area, they shall receive a Natural Shoreline Environmental designation. All other Shorelines shall receive a Conservancy Shoreline Environmental designation.

The designation of Shoreline environments are based on the criteria in section 16D.10.04 (Shoreline Environments). Seven shoreline streams are designated with the Floodway/CMZ environment. Where a Floodway/CMZ environment has been designated, the rightbank and leftbank designation shall fall outside the Floodway/CMZ environment, where applicable. Where there is no Floodway/CMZ environment, the thalweg of the stream shall be the line separating the right bank from the left bank.

The Floodway/CMZ environment is designated for the:

- Yakima River – From the SW ¼ of the SE ¼ of Sec. 8, T14N, R19E, to the East line of Sec. 34, T9N, R23E.
- Naches River – From the confluence of the Bumping River and the Little Naches River to the confluence with the Yakima River.
- Ahtanum Creek – From the confluence of the North and South Forks of the Ahtanum, to the confluence with the Yakima River.
- Ahtanum Creek North Fork – From the NW ¼ of the NE ¼ of Sec. 2, T12N, R15E, downstream to the confluence with the S. Fork Ahtanum Creek.
- Ahtanum Creek South Fork -- From the NE ¼ of the SE ¼ of Sec. 23, T12N, R15E downstream to the confluence with the N. Fork Ahtanum Creek.
- Rattlesnake Creek – From the south section line of Sec. 4, T15N, R15E downstream to the confluence with the Naches River.
- Bumping River – From the NE ¼ of the NW ¼ of Sec. 23, T16N, R12E downstream to the confluence with the Little Naches River.

Wetlands and river deltas associated with a Shoreline that lie outside of the Floodway/CMZ environment, shall have an environmental designation the same as the nearest adjacent left bank or right bank Shoreline environment.

Right bank and left bank determinations are ascertained by looking downstream.

Shoreline Environmental Designation Table Legend

U-Urban	R-Rural
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C -Conservancy	UC -Urban Conservancy
N -Natural	
Floodway/CMZ Environment: Yes – present No – Not present	T#N - Township#North R#E – Range#East
Shoreline designations where Yakima County has little or no jurisdiction. † USFS Wilderness Area ‡ Federal Ownership ⊙ Yakama Nation Closed Area ◇ Yakama Nation Trust Lands– Not under Yakima County jurisdiction.	Sections and portions of sections: • Sec. – Section • NW – Northwest • NE – Northeast • SW – Southwest • SE – Southeast
* - Shoreline of Statewide Significance as defined per RCW 90.58.030(2)(e), generally being streams with flows of two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area.	

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Stream	Reach Description	Right Bank	Flood way/ CMZ	Left Bank
Ahtanum Creek Basin				
Ahtanum Creek – N. Fork	From Lat. 46° 30' 51", Long. 120° 03' 30" (NW ¼ of the SE of ¼ of Sec. 22, T 12N, R 10E) downstream to the east section line of Sec. 2, T12N, R15E. The floodway/CMZ environment begins in the NW ¼ of the NE ¼ of Sec. 2, T12N, R15E and runs downstream.	C	Yes	C
Ahtanum Creek – N. Fork	From the east section line of Sec. 2, T12N, R15E, downstream to the east section line of Sec. 18, T12N, R16E (the confluence with the Ahtanum Creek South Fork).	R	Yes	R
Ahtanum Creek – S. Fork ⊙	From Lat. 46° 30' 31" Long. 120° 55' 06" (the NE ¼ of the NW ¼ of Sec. 26, T 12N, R 10E) downstream to the east section line of Sec. 13, T12N, R15E and Sec. 24, T12N, R15E.. The floodway/CMZ environment begins in the NE ¼ of the SE ¼ of Sec. 23, T12N, R15E and runs downstream.	C	Yes	C
Ahtanum Creek – S. Fork ⊙	From the east Sec. line of Sec. 13, T12N, R15E and Sec. 24, T12N, R15E downstream to the east section line of Sec. 18, T12N, R16E (the confluence with the Ahtanum Creek North Fork).	C	Yes	R
Ahtanum Creek ⊙	From east section line of Sec. 18, T12N, R16E (the confluence of the North and South Forks Ahtanum Creek)) downstream to the east section line of Sec. 16, T12N, R17E, except the Ahtanum Mission Site.	C	Yes	R

Stream	Reach Description	Right Bank	Flood way/ CMZ	Left Bank
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 NW 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 NE corner of the existing old mission property; thence South 250 feet to the SE corner; thence West 350 feet to the SW 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	N	Yes	N
Ahtanum Creek◇	From the east section line of Sec. 16, T12N, R17E downstream to the east section line of Sec. 4, T12N, R18E.	R	Yes	R
Ahtanum Creek◇	From the east section line of Sec. 4, T12N, R18E downstream to the Bakers Mill Race Canal right-of-way (in the SE ¼ of Sec. 7, T12N, R19E).	R	Yes	U
Ahtanum Creek◇	From the Bakers Mill Race Canal right-of-way downstream to the South Sec. line of Sec. 8, T12N, R19E	UC	Yes	UC
Columbia River				
Columbia River*‡	From the Yakima/Kittitas County line (Sec. 5, T14N, R23E) downstream along the Grant-Yakima County line to the Yakima/Benton County line (Sec. 12, T13N, R23E).	C	No	
Cowiche Creek Basin				
Cowiche Creek – S. Fork	From Lat. 46° 39' 47", Long. 120° 49' 54" (the confluence of McDaniel's Canyon and the South Fork Cowiche Creek in the NW ¼ of the NE ¼ of Sec. 33, T14N, R16E) downstream to the West line of the east half of Sec. 31, T14N, R17E. (Snow Mt. Ranch)	C	No	C
Cowiche Creek – S. Fork and Mainstem	From the West line of the east half of Sec. 31, T14N, R17E downstream to the South line of the NE ¼ of the NW ¼ of Sec. 11, T13N, R17E	R	No	R
Cowiche Creek	From the South line the NE ¼ of the NW ¼ of Sec. 11, T13N, R17E downstream to the west line of Secs. 8 and 17, T13N, R18E (Cowiche Canyon)	C	No	C