

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
44

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1) Page 3, Section 16A.01.04(1)(b) (Intent of Title), strike line 117. The Board removes intent statement b) and the recommended PC edits as an inappropriate intent statement.
 - 2) Page 4, Section 16A.01.04(1) (Intent of Title), insert a new subsection (l) at line 136 with the following language:

"Recognize that mining is a unique use as a result of it's inherent linkage to geology. Therefore, mining and related activities may be an appropriate use when conducted consistent with the policies and provisions of WAC 173-26-241(h), within all Shoreline Designations, except the Natural and Floodway/CMZ Environments."

Based on public testimony, the Board finds this as an appropriate intent statement.
 - 3) Page 17, Section 16A.02.195 (Feasible), strike lines 688-691. The Board finds the recommended text as inappropriate and burdensome.
 - 4) Page 17, Section 16A.02.200 (Fill), line 695, strike the term "rubble". The Board removes this undefined term to avoid confusion.
 - 5) Page 22, Section 16A.02.321 (Qualified Professional), lines 911-915, delete existing and proposed text and edit the paragraph to read as follows:

"A qualified professional" shall meet the following criteria:
 - 6) Page 22, Section 16A.02.321 (Qualified Professional), lines 945-947, edit to read as follows:

"(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."
- For items 5) and 6), the Board has finds that the edits give the Administrative Official more flexibility in applying the Qualified Professional criteria.
- 7) Page 23, Section 16A.02.325 (Restore), line 958, strike "or upgrade". The Board has removed this term since it is redundant with the preceding word "re-establish".
 - 8) Page 23, Section 16A.02.340 (Riprap), line 975, strike "rubble or". The Board removes this undefined term to avoid confusion.
 - 9) Page 30, Section 16A.03.02(3)(a) (Critical Areas Identification Form and Critical Areas Report Requirements), lines 1270-1271, strike the phrase ", and/or the proposed activity is unlikely to degrade the functions or values of a critical area". The Board finds this statement speculative.
 - 10) Page 30, Section 16A.03.02(3)(c) (Critical Areas Identification Form and Critical Areas Report Requirements), lines 1280-1281, strike the phrase "or is likely to degrade the functions and values of the critical area". The Board finds this statement speculative.
 - 11) Page 33, Section 16A.03.06(6) (Exemptions – Procedural Requirements), line 1422, strike the word "potential". The Board finds that a requirement to protect against "potential" impacts is speculative.
 - 12) Page 34, Section 16A.03.06(7) (Exemptions – Procedural Requirements), lines 1431-1437, insert a period "." after the word "standards". Strike the remainder of subsection (7). The Board finds the recommended examples unnecessary.
 - 13) Page 38, Section 16A.03.07 (17)(ii) (Exemptions for Hydrologically Related Critical Areas, and Wetlands), lines 1647-1650, edit subsection (ii) to read as follows:

"A diseased or damaged tree may be removed as determined by the Administrative Official". The Board finds that the Administrative Official should have greater discretion on this issue.

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

- activities that are allowed within a buffer, the board finds that a reference to Section 16A.03.05 is a better solution, which is less problematic than creating a new definition.
- 26) Page 104, Section 16A.06.12(1)(b) (Use Classifications), line 4425, strike the word “sewage” and insert “wastewater”. The Board finds “wastewater” to be a more appropriate term.
- 27) Pages 105-106, Section 16A.06.14 (Water-related Uses), lines 4474-4493, replace the text with language from the original CAO and edit as follows:
- “The following provisions shall apply to water-related uses:
- (1) Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.
- (2) Structures and use areas shall not be located within the vegetative buffer specified in Section 16A.06.16 (Vegetative Buffers) except where existing development or the requirements associated with the use make such a location unavoidable.”
- The Board finds that during the editing process, the provisions in Section 16A.06.14 (Water-related Uses) were accidentally changed to the provisions in 16A.06.15 (Water-enjoyment and Non-water Oriented Uses). The Board therefore finds that the original text with edits be restored.
- 28) Page 109, 16A.06.16, Table 6-2 (Vegetative Buffers), reject the PC recommended wetland buffer widths and retain the existing wetland buffer widths from existing table 4-2, except for editing the Type IV wetland buffers to 50’/(25’) (Std./Min.). The Board has considered the science and finds that there has been no evidence or testimony that any significant environmental degradation has occurred with the existing wetland buffers, therefore the existing standards, with edits, are within the range of science and sufficient to protect wetlands. The Board finds that vegetation management within the SMP is not solely reliant on the buffer standards in Section 16A.06.16. The SMP includes many other measures that protect Shoreline ecological functions. The sum of protection measures effectively provides layers of protection on different aspects of shoreline ecology.
- The buffer standards are based on a scientific review and are the minimum needed to protect the functional properties listed in Section 16A.06.05, with the exception of some of the wildlife functions that often require extremely large buffers as noted in the science, some of which extend well beyond the jurisdiction of the SMP. In addition to the buffer standards, there are a number of other standards that accomplish vegetation and wildlife management, which include sections:
- 16D.06.11(2) (protection of existing riparian and sensitive vegetation)
 - 16D.06.11(3) (protection of sensitive wildlife habitat)
 - 16D.06.11(4) (scheduling to avoid sensitive wildlife periods)
 - 16D.06.11(20) (must repair buffers damaged during construction)
 - 16D.06.15(3) (must design projects to protect buffers)
- The Board finds that all developments are required to ensure no net loss of ecological function and adhere to mitigation sequencing; specific locations for these requirements can be found in sections: 16D.01.04(1) (c) and (j); 16D.06.01 (a) (1) and (2); 16D.06.01(b)(3); 16D.06.11(15); 16D.06.11(24) (a) and (b), 16D.10.01(11); (16D.03.10 & 16D.06.11(15); 16D.03.17 (13); 16D.03.17 (14). The board finds that the SMP

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

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

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

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

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

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

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

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

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

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

BE IT HEREBY ORDAINED:

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

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

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

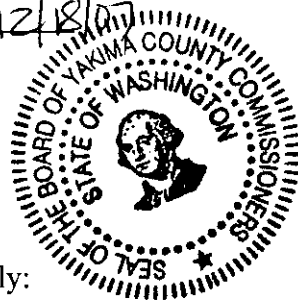
Severability 4. If any section, sentence, clause, or phrase of the adopted new YCC Title 16D should be held to be invalid or unconstitutional by any body or court with authority and jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section,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

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

425 Dated this _____ day of _____, 2007

426
427 Attest:

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430 Christina S. Steiner
431 Christina S. Steiner
432 Clerk of the Board
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435



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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
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430 Michael D. Leita
431 Michael D. Leita, Chairman
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437 Ronald F. Gamache
438 Ronald F. Gamache, Commissioner
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440
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443
444 J. Rand Elliott
445 J. Rand Elliott, Commissioner
446 Constituting the Board of County
447 Commissioners for Yakima County,
448 Washington

450 **Exhibit B –Amendments to Plan 2015 Goals and Policies for Shorelines**
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Chapter 16D.01
GENERAL PROVISIONS

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16D.01.01 Title and Authority

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

16D.01.02 Language Interpretation

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

16D.01.03 Purpose of Title

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

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

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

16D.01.05 Applicability

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

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

16D.01.06 Science and Protection of Anadromous Fish

This title has been updated consistent with the requirements for:

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

16D.01.07 Applicability of Permit System to Federal Agencies

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

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

Chapter 16D.02
DEFINITIONS

16D.02.001 Definitions Generally

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

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

16D.02.005 Abutting

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

16D.02.010 Adjacent

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

16D.02.012 Administrative Official

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

16D.02.015 Agricultural Activities

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

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

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

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

16D.02.025 Alluvial fan

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

16D.02.030 Applicant

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

16D.02.033 Aquaculture

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

16D.02.035 Aquifer

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

16D.02.040 Critical Aquifer Recharge Area

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

16D.02.042 Bank

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

16D.02.043 Bankfull depth

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 14-2007

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

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

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

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

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

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

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

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

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

16D.02.080 Bulkhead

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

16D.02.082 Cabin

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

16D.02.085 Channel

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

16D.02.090 Channel Migration Zone

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

16D.02.092 Chief Building Official

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

16D.02.095 Classification

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

16D.02.100 Clearing

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

16D.02.110 Compaction

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

16D.02.115 Confinement Feeding Operation

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

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

16D.02.120 Construction

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

16D.02.125 Designated

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

16D.02.130 Department

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

16D.02.135 Development

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

16D.02.140 Dike

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

16D.02.145 Dock

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

16D.02.150 Dredging

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

16D.02.160 Earth Material

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

16D.02.163 Ecological functions

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

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

16D.02.166 Ecosystem-wide processes

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

16D.02.170 Enhance

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

16D.02.175 Ephemeral Stream

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

16D.02.180 Erosion

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

16D.02.185 Events and Temporary Uses

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

16D.02.190 Excavation

"Excavation" means the mechanical removal of earth material.

16D.02.195 Feasible

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

- (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- (b) The action provides a reasonable likelihood of achieving its intended purpose; and
- (c) The action does not physically preclude achieving the project's primary intended legal use.

16D.02.200 Fill

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

16D.02.205 Flood

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

16D.02.206 Flood Hazard Permit

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

16D.02.207 Flood Insurance Rate Map

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

16D.02.208 Flood Insurance Study

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

16D.02.210 Floodplain

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

16D.02.215 Flood-prone

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

16D.02.216 Flood-proofing

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

16D.02.220 Floodway

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

16D.02.225 Floodway Fringe

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

16D.02.230 Forest Land

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

16D.02.240 Forest Practices

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

16D.02.250 Grade

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

16D.02.255 Grading

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

16D.02.260 Groundwater

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

16D.02.263 Hydrologically Related Critical Areas (HRCA)

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

16D.02.266 Hyporheic

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

16D.02.270 Intermittent Streams

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

16D.02.275 Lake or pond

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

16D.02.281 Lowest Floor

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

16D.02.282 Manufactured Home

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

16D.02.283 Manufactured Home Park or Subdivision

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

16D.02.284 Manufactured Home Park or Subdivision, Existing

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

16D.02.285 Minerals

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

16D.02.290 Mining

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

16D.02.295 Native

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

16D.02.300 Natural Conditions

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

16D.02.302 New Construction

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

16D.02.303 Nonconforming Structure

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

16D.02.304 Nonconforming Use

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

16D.02.305 Ordinary High Water Mark (OHWM)

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

16D.02.310 Perennial Stream

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

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

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

16D.02.335 Riparian Vegetation

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

16D.02.340 Riprap

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

16D.02.345 Scour

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

16D.02.355 Shoreline

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

16D.02.360 Shore Stabilization

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

16D.02.363 Single Improved Recreational Vehicle Site

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

16D.02.365 Slope

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

16D.02.366 Solid Waste

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

16D.02.367 Special Flood Hazard Areas

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

16D.02.368 Start of Construction

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

16D.02.370 Stream

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

16D.02.380 Stream Corridor

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

16D.02.390 Structure

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

16D.02.395 Substantial Improvement

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

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

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

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

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

16D.02.400 Use

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

16D.02.415 Vegetative Buffer or Buffer

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

16D.02.425 Wetland

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

16D.02.430 Wildlife

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

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.

901

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APPLICATION AND REVIEW PROCEDURES

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942
943 **General Provisions**
944

945 **16D.03.01 Shoreline Development Authorization Required**

- 946 1) No new development, construction or use shall occur within Shoreline jurisdiction without
947 obtaining a development authorization in accordance with the provisions of this title, except
948 for those provided for in section 16D.03.05 (Minor Activities Allowed without a Permit or
949 Exemption). Exemptions, as provided for in sections 16D.03.07 through 16D.03.09, shall be
950 considered as development authorization, including those taking place on federal lands and
951 requiring permits or review as provided in 16D.01.07 (Applicability to Federal Agencies) but
952 *qualifying for other exemptions under this chapter.* All proposed uses and development
953 occurring within Shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline
954 Management Act and this master program.
- 955 2) With respect to application and review procedures, it is the intent of this title to streamline
956 and coordinate the authorization of critical area projects which require other local, state
957 and/or federal permits or authorizations. Any nonexempt development, construction or use
958 occurring within Shoreline jurisdiction shall be processed according to the provisions of this
959 chapter and the Project Permit Administration Ordinance (YCC Title 16B).
- 960 3) Approval of a development authorization under this title shall be in addition to, and not a
961 substitute for, any other development permit or authorization required by Yakima County.
962 Approval of a development authorization under this title shall not be interpreted as an
963 approval of any other permit or authorization required of a development, construction or use.
- 964 4) Permits issued in accordance with this title shall run with the land.
965

966 **Inquiry and Early Assistance**
967

968 **16D.03.02 Critical Area Identification Form and Critical Area Report Requirements.**

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

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

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

16D.03. 04 Technical Assistance Conference

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

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

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

Abbreviated Review Alternatives

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

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

16D.03.06 Exemption–Procedural Requirements

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

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

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

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

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

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

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

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

- 6) Emergency construction necessary to protect property from damage by the elements, An "emergency" is an unanticipated and imminent threat, which requires immediate action or response within a time period too brief to allow full compliance with this title.

The following criteria must exist to qualify any action under an emergency provision:

- a) There must be an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation arising from a natural condition or technical incident;
- b) The emergency response must be confined to the action necessary to protect life or property from damage;
- c) The scope of the emergency response must be limited to the work necessary to relieve the immediate threat;
- d) The emergency response applies only to the period of time in which the actual emergency exists;
- e) The request must be accompanied by a paid permit application or a request for a non-emergency exemption. Submittal requirements beyond normal exemption submittal requirements are waived until after the emergency is deemed abated. As soon as the emergency is deemed abated by appropriate authorities, compliance with the requirements of this title is required, and may include removal of the emergency construction if non-structural construction measures can adequately deal with site issues.

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

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

- Department of Ecology conducts a remedial action under chapter 70.105D RCW (Model Toxics Control Act). The Department of Ecology shall assure that such projects comply with the substantive requirements of chapter 90.58 RCW (SMA), chapter 173-26 WAC (SMA Guidelines) and the Shoreline Master Program, when applicable.
- 17) The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and buffers, provided that:
- a) A dead tree within a buffer may be shortened to the point that the tree will not strike a structure or defined vehicle parking area. The remainder shall be maintained to provide wildlife habitat, nesting locations and perch sites. A remainder less than ten (10) feet tall may be removed completely;
 - b) A diseased or damaged tree may be removed as determined by the Administrative Official;
 - c) The removed portion of trees should be placed within the vegetative buffer area as wildlife habitat, unless it will interfere with a maintained vegetation area identified in section 16D.03.05(a) (Minor Activities), or as determined otherwise by the Administrative Official. Portions of trees to be removed from the buffer area should be felled to the outer edge of a vegetative buffer and dragged out. Heavy equipment is not allowed within the buffer, except within areas identified in 16D.03.05(a) (Minor Activities). Damaged riparian vegetation must be repaired;
 - d) Each tree that is felled or topped shall be replaced in a manner acceptable to the Administrative Official.

16D.03.08 Exemptions for Geologically Hazardous Areas

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

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

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

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

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

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

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

16D.03.12 Determination of Review Process

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

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.

16D.03.13 Development Authorization – Review Procedure

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

- 1) Development authorizations shall be processed consistent with review procedures provided in YCC Title 16B (Project Permit Administration), and with any specific processes requirements provided in 16D.03.19 through 16D.03.26 (specific permit descriptions), including but not limited to:
 - a) submittals;
 - b) completeness review;
 - c) notices;
 - d) hearings;
 - e) decisions; and,
 - f) appeals.
- 2) Development authorizations shall be reviewed for conformance with the applicable development standards provided in 16D.03.27 (General Critical Areas Protection Measures), and in chapters 16D.06 through 16D.10, except that:
 - a) Forest practices under a state or federal approval lying within Shoreline jurisdiction, which meet the standards of 16D.06.24(1) (Forest Practices), shall be deemed to be meeting acceptable critical areas protection measures and are only subject to the development standards of 16D.10 (Shorelines), when applicable;
 - b) For rangeland livestock grazing operations, both inside and outside Shoreline jurisdiction, the Administrative Official may waive compliance with development standards in Chapter 16D.06 (Fish and Wildlife Habitat and the Stream Corridor), 16D.07 (wetlands), 16D.08 (Geologically Hazardous Areas), and 16D.09 (CARA), but not for Chapter 16D.10 (Shorelines) or those uses and activities listed in section 16D.06.10 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be provided that has been prepared using all applicable US Department of Agriculture - National Resource Conservation Service best management practices designed to protect streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing operations. An acceptable Resource Management Plan is deemed to consist of acceptable critical areas protection measures capable of dealing with impacts of grazing activities dispersed across large areas. This provision is not intended to apply to pasture grazing, hobby farms, or confinement feeding operations.
- 3) Decisions on a development authorization shall be consistent with section 16D.03.14 (Authorization Decisions – Basis for Action), 16D.03.15 (Conditional Approval of Development Authorization) and with any specific decision criteria provided under the sections for each relevant permit type, as provided in 16D.03.19 through 16D.03.26 (specific permit descriptions).
- 4) In addition to the review procedures of YCC Title 16B, the following additional procedures shall apply to development authorizations within Shoreline jurisdiction:
 - a) The public comment period for Shoreline permits shall conform to WAC 173-27-110 (30 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;

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

16D.03.15 Conditional Approval of Development Authorization

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

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

16D.03.16 Fees and Charges

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

Critical Areas Reports

16D.03.17 Critical Areas Report Requirements

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

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

- 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;

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

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

16D.03.18 Supplemental Report Requirements for Specific Critical Areas

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

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

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

5) **Flood Hazards**

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

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

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

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

Permit Review Criteria

16D.03.19 Substantial Development Permit

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

16D.03.21 Shoreline Conditional Uses

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

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

16D.03.22 Variance

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

- 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

the original site plan shall require a new permit, and: PROVIDED FURTHER, that any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of these regulations;

- e) Landscaping may be added to a project without necessitating an application for a new permit: PROVIDED, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the this title for the area in which the project is located;
- f) The use authorized pursuant to the original permit is not changed;
- g) No additional significant adverse environmental impact will be caused by the project revision.

- 2) **Process** – Minor revisions to existing permits shall be processed as a Type I review, as provided under YCC Title 16B (Project Permit Administration). Parties of record to the original permit shall be notified of the revision, though a comment period is not required. A revision for a project within Shoreline jurisdiction shall follow state filing, appeal and approval standards as provided in WAC 173-27-100 (Revisions to Permits).
- 3) **Decision Criteria** - Decisions on permit revisions shall be based on the general decision criteria found in section 16D.03.14 (Authorization Decisions – Basis for Action).

16D.03.26 Non-Conforming Uses and Facilities

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

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

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

2) Declarative Covenants

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

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

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

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

- b) The declarative covenant shall not be required for a development proposal by a public agency or public or private utility:
- i) Within a recorded easement or right-of-way;
 - ii) Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
 - iii) On the site of a permanent public facility.
- c) The applicant shall submit proof that the declarative covenant has been filed for public record before the Administrative Official approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.
- 3) Subdivision Standards - The following standards apply to all permits or reviews under the 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.
- 2173

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

in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.

(b) It shall be the affirmative duty of the county prosecutor's office to seek relief under this section for violations of this title.

(c) Nothing herein shall prevent the county prosecutor's office from taking such other lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

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

Chapter 16D.05
FLOOD HAZARD AREAS

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

proposed project shall be submitted to the department for approval.

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

16D.05.20.060 Exemptions

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

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

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

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

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

16D.05.20.070 Interpretations

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

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

16D.05.20.080 Compliance

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

16D.05.20.090 Warning and Disclaimer of Liability

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

16D.05.28 FLOOD HAZARD PROTECTION STANDARDS

Sections:

16D.05.28.010 General Standards

16D.05.28.020 Specific Standards

16D.05.28.010 General Standards

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

(a) Anchoring and Construction Techniques.

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

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

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

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

(D) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

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

(4) Except where otherwise authorized, all new construction and substantial improvements to existing structures shall require certification by a registered professional engineer, architect or surveyor that the design and construction standards are in accordance with adopted floodproofing techniques.

(b) Utilities.

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

(c) Subdivision Proposals. Subdivision proposals shall:

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

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

16D.05.28.020 Specific Standards

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

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

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

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

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

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

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

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

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

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

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

- 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).

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

2454 Sections:

- 2455 16D.05.32.010 Permitted Uses
 2456 16D.05.32.020 Prohibited Uses

2458 **16D.05.32.010 Permitted Uses**

The following uses are permitted in the floodway fringe areas:

(1) Any use permitted in the zoning district in accordance with YCC Title 15 or 15A of the Yakima County Code, unless prohibited by Section 16D.05.32.020.

(2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with YCC Title 15 and where not otherwise inconsistent with Chapters 16D.05.20 through 16D.05.72; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:

(A) Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed.

(B) Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of Section 16D.05.36.010(2)(c).

(C) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all other agricultural and nonagricultural floodway fringe or special flood hazard areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage.

(D) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.

(E) Aboveground utility transmission line appurtenant structures, including valves, pumping stations or other control facilities, shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available, or in the event a floodway fringe or special flood hazard location is environmentally preferable. In such instances, aboveground structures shall be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately floodproofed.

16D.05.32.020 Prohibited Uses

The following uses shall be prohibited in floodway fringe areas:

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

16D.05.36 FLOODWAY USES

Sections:

- | | |
|---------------|-----------------|
| 16D.05.36.010 | Permitted Uses |
| 16D.05.36.020 | Prohibited Uses |

16D.05.36.010 Permitted Uses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16D.05.36.020 Prohibited Uses

The following uses/developments are prohibited in the floodway:

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

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

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

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

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

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

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

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

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

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

16D.05.40 NON-CONFORMING USES AND STRUCTURES

Sections:

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

16D.05.40.010 Generally

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

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

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

16D.05.40.020 Non-conforming Uses of Land

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

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of the lot of record than that which it occupied at the effective date of adoption or amendment of Chapters 16D.05.20 through 16D.05.72.
- (2) At such time as a structure is erected thereon, the structure and the use of the land shall conform to the regulations specified by Chapters 16D.05.20 through 16D.05.72 and YCC Titles 15 or 15A.

16D.05.40.030 Non-conforming Structures

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

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

16D.05.40.040 Improvements

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

16D.05.40.050 Restoration

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

16D.05.060 Discontinuance

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

16D.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION

Sections:

16D.05.44.010	Administration
16D.05.44.020	Authority
16D.05.44.030	Permit – Required
16D.05.44.040	Permit – Application
16D.05.44.050	Permit – Review
16D.05.44.060	Use of Available Data
16D.05.44.070	Limitations
16D.05.44.080	Permit – Expiration & Cancellation

16D.05.44.010 Administration

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

16D.05.44.020 Authority

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

16D.05.44.030 Permit – Required

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

16D.05.44.040 Permit – Application

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

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

16D.05.44.050 Permit – Review

Flood hazard permit applications will be reviewed to determine:

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

16D.05.44.060 Use of Available Data

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

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**

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

16D.05.48.030 Information to be obtained and maintained

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

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

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

(3) Where a base flood elevation has not been established according to Section 16D.05.20.010, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) as related to the highest adjacent grade, and whether or not the structure contains a basement.

16D.05.48.040 Certification Responsibility

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

16D.05.52 VARIANCES

Sections:

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

16D.05.52.010 Procedure

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

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

16D.05.52.020 Variance limitations

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

16D.05.52.030 Conditions for Authorization

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

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

16D.05.52.040 Administrative Official's Decision

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

16D.05.52.050 Notification and Final Decision

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

16D.05.52.060 Power to Refer Decisions

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

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
2939		Standards
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

2970
2971 **16D.06.01 Purpose and Intent**

- 2972 1) The stream corridor system includes hydrologically related critical areas, streams, lakes,
2973 ponds, and wetlands, including those features within Shoreline jurisdiction where applicable,
2974 and are part of a fragile and highly complex relationship of geology, soils, water, vegetation,
2975 and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to
2976 help conserve, protect, and, where feasible, restore and enhance this complex relationship.
2977 These regulations have been designed to:
- 2978 a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the
 - 2979 functions and values of fish and wildlife habitat, wetlands, stream undercutting geologic
 - 2980 hazards and frequently flooded areas; and to give special consideration to anadromous
 - 2981 fish applicable to Shoreline jurisdiction;
 - 2982 b) Meet the requirements of the Shoreline Management Act (RCW 90.58) to protect the
 - 2983 ecosystem-wide processes of state Shorelines within Shoreline jurisdiction;
 - 2984 c) Meet eligibility requirements of the National Flood Insurance Program (NFIP).
- 2985 2) The guidelines, policies, and standards of this chapter are intended to:
- 2986 a) Provide alternatives for necessary development, construction, and uses within a
 - 2987 designated stream corridor and other hydrologically related critical areas;
 - 2988 b) Prevent further degradation in the quantity and quality of surface and subsurface waters;
 - 2989 c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation,
 - 2990 and ecological relationships;
 - 2991 d) Protect public and private properties from adverse effects of improper development
 - 2992 within hazardous or sensitive areas of the stream corridor;
 - 2993 e) Provide a zero net loss of natural wetlands functions and values together with, a gain of
 - 2994 wetlands in the long term, if reasonably possible through voluntary agreements or
 - 2995 government incentives;
 - 2996 f) Establish measures to protect streams, lakes, ponds, and wetlands under Shoreline
 - 2997 jurisdiction that are at least as protective as the measures applying outside Shoreline
 - 2998 jurisdiction as required by RCW 90.58.030 (Finding -- Intent -- 2003 c 321);
 - 2999 g) Recognize that, based on WAC 365-190-080(5) (Fish and Wildlife Habitat Conservation
 - 3000 Areas) wildlife habitat conservation means land management for maintaining species in
 - 3001 suitable habitats within their natural geographic distribution so that isolated
 - 3002 subpopulations are not created. This does not mean maintaining all individuals of all
 - 3003 species at all times, but it does mean cooperative and coordinated land use planning is
 - 3004 critically important;
 - 3005 h) Emphasize that these provisions do not attempt to protect individuals of species. Rather,
 - 3006 these provisions are intended to provide protection for wildlife habitats.
 - 3007

3008 **16D.06.02 Protection Approach**

- 3009 1) To maintain viable populations of fish and wildlife species, there must be adequate
- 3010 environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals
- 3011 at a variety of scales across the landscape. Key factors affecting habitat quality include
- 3012 fragmentation, the presence of essential resources such as food, water, nest building
- 3013 materials, the complexity of the environment, and the presence or absence of predator species
- 3014 and diseases. As a method of linking large habitat areas, migration corridors offer a means
- 3015 by which to connect publicly protected lands and other intact habitat areas. Riparian

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

- a) Protect habitat for aquatic (in-water) species through stream, lake, pond and wetland standards;
- b) Protect habitat for riparian (near-water) species through stream, lake, pond, and wetland standards and buffer requirements;
- c) Protect habitat for upland species using the upland wildlife habitat protection measures described below.

- 2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land, including State Natural Area Preserves and Natural Resource Conservation Areas. These lands are managed to some extent for the conservation of wildlife habitat. Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is to rely on the management of these lands by the responsible entity.
- 3) To accomplish upland wildlife protection on private lands, Yakima County performed an assessment to map wildlife habitat. Only a small percentage of the mapped area is within private ownership and that is largely in remote areas of forest and rangeland. Consequently, part of Yakima County's approach to protect upland wildlife on private land is to rely on the large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum) and Agriculture (40 acre minimum) zoning districts.
- 4) Corridors for wildlife to move between large habitat areas are a component of wildlife habitat. Riparian corridors offer a natural system of linkages between such areas. In semi-arid regions such as Yakima County, riparian corridors not only offer migratory linkages between large habitat areas but also offer important refuge and habitat for numerous species that rely on the riparian areas for their existence. Consequently, Yakima County's approach to protect wildlife migration corridors and riparian habitat is to rely on the protection measures for stream corridors, wetlands, and Shoreline jurisdiction, where applicable.
- 5) Yakima County's approach to protecting aquatic habitat is to rely on the protection standards for stream corridors, wetlands, and Shoreline jurisdiction (where applicable).
- 6) The state gives some discretion to local governments in designating fish and wildlife habitat. WAC 365-190-080(5)(a) (fish and wildlife habitat designation) identifies six non-marine habitat types from which to choose in designating fish and wildlife habitat, but does not require the use of all listed habitat types. Five habitat types are protected using the approaches described above. The remaining habitat type - Threatened, Endangered, and Sensitive Species Habitat is difficult to use due to the difficulties in obtaining accurate maps of habitat for the different species. In addition, such species are protected by federal and state laws which are administered by other agencies. Yakima County's approach to protecting Threatened, Endangered, and Sensitive Species Habitat is to do so indirectly, using each of the above listed protection approach items. Direct protection measures are deferred to the relevant state or federal agency with jurisdiction over the different species. Yakima County will consider comments and advice related to a species from such agencies in the course of normal development review processes.

Designation and Mapping

16D.06.03 Hydrologically Related Critical Area Features

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

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

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

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

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

16D.06.05 Functional Properties

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

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

16D.06.06 Stream, Lake and Pond Typing System

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

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

16D.06.07 Wetland Rating System

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

16D.06.08 Maps

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

- 1) Regulatory maps are created with a defined process not necessarily corresponding directly with easily observable physical features such as streams and wetlands. These maps define the regulated critical areas. They are also formally adopted by the Board of Yakima County Commissioners and may only be changed by that body. Regulatory maps include the following:
 - a) Any floodway or floodplain identified as a special flood hazard area by the Federal Insurance Administration in the Flood Insurance Study for Yakima County.
- 2) Administrative maps are intended to indicate the approximate presence, location and/or typing of the subject critical area features, and act as a trigger for further investigation of the extent and characteristics of critical areas in a specific project location. These maps were created using reconnaissance level or better data. Given site-specific variations in reconnaissance level data, more detailed information developed at the site-specific level may be used to modify the maps as it is developed; the maps maintained by the Yakima County Public Services Department do not officially define the extent or characteristics of specific critical areas; rather the physical characteristics that exist “on the ground” define the boundaries of the regulated critical areas. Administrative maps include, but are not limited to the following:
 - a) Wetlands;
 - b) Streams;
 - c) Channel migration zone;
 - d) Species and Habitats of Local Importance - Mapped habitat areas for newly listed species will be generated as needed to supplement the existing maps. Habitats of local importance currently include:
 - i) Type 2 Streams, lakes and/or ponds listed in Appendix A and described in section 16D.06.06(2) above.
 - e) Upland Wildlife Habitat Analysis Map;
- 3) Other information sources – these are maps or other data sources, including special studies and management plans, which are neither produced or maintained by the Yakima County Public Services Department, which are used to indicate the presence of critical areas,

importance or ranking of critical areas functions, or hazard or risk associated with critical areas. These information sources include, but are not limited to:

- a) Comprehensive Flood Hazard Management Plans and associated studies;
- b) Soil Survey of Yakima County;
- c) Natural resource management plans, such as local and federal Recovery Plans, or Forest Plans prepared by the US Forest Service;
- d) Surficial Geologic Maps;
- e) Historic and Current Aerial Photo Series;
- f) Geohydraulic studies – geologic cross sections showing aquifers and confining units.

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

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

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

General Development Standards

16D.06.10 Prohibited Uses

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

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

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

16D.06.11 General Policies and Standards

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

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

- 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

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

Water Dependency Development Standards and Buffer Requirements

16D.06.12 Use Classifications

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

- 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.
3449

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.
3459

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.
3468

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

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

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

16D.06.16 Vegetative Buffers

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

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

Table 6 – 1

Stream Type	Buffer Width 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.

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'

Land Modification Development Standards

16D.06.17 Roads, Railroads and Parking

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

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

16D.06.18 Utility Transmission Lines and Facilities

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

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

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

16D.06.19 Shore Stabilization

The following provisions shall apply to shore stabilization projects:

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

- 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.

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

16D.06.20 Dredging and Excavation

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

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

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

16D.06.21 Filling

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

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

16D.06.22 Commercial Mining of Gravels

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

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

16D.06.23 Reclamation

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

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

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

Shoreline Use Development Standards

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

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

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

- 1) Developers shall insure that utility lines including electricity and communications will be 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;

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

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

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

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

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

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

exemption when applicable. The following provisions apply to any development, construction, or use of land for agricultural purposes.

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

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

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

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

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

Chapter 16D.07 WETLANDS

Sections:

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

16D.07.01 Purpose and Intent - The purpose and intent of the provisions protecting wetland critical areas 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

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

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

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

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

16D.07.06 Wetland Mitigation Banks

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

- 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.

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

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

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

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

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

16D.08.03 Geologically Hazardous Areas Protection Approach

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

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

16D.08.04 Development Review Procedure for Geologically Hazardous Areas

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

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

analysis to be the best available science at the time the analysis was conducted. This analysis was at a coarse, countywide scale, rather than a site specific assessment. The approximate location and extent of critical aquifer recharge areas are shown on the map, and are to be used as a guide for the county, project applicants and/or property owners, and may be updated as more detailed data becomes available. The CARA map estimates areas of moderate, high and extreme susceptibility to contamination, in addition to wellhead protection areas. To characterize hydrogeologic susceptibility of the recharge area to contamination, the GIS analysis used the following physical characteristics:

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

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

16D.09.03 Protection Approach

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

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

physical features may change. The physical features will dictate the extent of the Shoreline jurisdictional boundaries. Shoreline jurisdictional area shall include:

- 1) Those Shoreline lakes, ponds and stream lengths identified in Appendix B and C of this title.
- 2) Subject to Subsection 7 below, wherever the "floodway" has been established by a flood insurance study prepared by the Federal Emergency Management Agency (FEMA), shorelines jurisdiction shall be the floodway plus 200 feet, measured on a horizontal plane, or the 100-year floodplain, whichever is lesser.
- 3) Subject to Subsection 7 below, whenever the 100-year floodplain has been identified by a flood insurance study prepared by the Federal Emergency Management Agency but where no "floodway" has been identified, shorelines jurisdiction shall be the 100-year floodplain boundary or 200 feet, measured in a horizontal plane, from the ordinary high water mark, whichever is greater.
- 4) Whenever there are no detailed floodplain or floodway studies, shoreline jurisdiction shall be 200 feet, measured on a horizontal plane, from the ordinary high water mark.
- 5) Where a Channel Migration Zone (CMZ) has been identified, and extends beyond the jurisdiction established by sub-section (2) above, jurisdiction shall extend to the extent of the CMZ, but not beyond the limits of sub-section (3).
- 6) Those wetlands and river deltas which are in proximity to and either influence or are influenced by the Shorelines. This influence includes, but is not limited to, one or more of the following: periodic inundation, location within a floodplain, or hydraulic continuity;
- 7) Under no circumstances shall shoreline jurisdiction be less than 200 feet, measured on a horizontal plane, from the ordinary high water mark of the Shoreline water body.

16D.10.04 Shoreline Environments

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

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

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

16D.10.05 Shoreline Land Use Table

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

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.	

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4665	<u>LAKES</u>	<u>LOCATION</u>	<u>DESIGNATION</u>
4666	Byron Ponds	Sec.12, T8N R23E	Conservancy
4667	Horseshoe Pond	Sec. 21, 22, T9N, R22E	Conservancy#
4668	Morgan Pond	Sec. 25, T9N, R22E	Conservancy#
4669	Horseshoe Lake◊	Sec. 2526,35,36, T9N, R22E	Rural#
4670	Giffin Lake	Sec. 22,23,26,27 T9N, R22E	Conservancy#
4671	Freeway Lake	Sec. 7, T13N, R19E	Urban Conservancy#
4672	Wenas Lake	Sec. 2, T15N, R17E	Conservancy
4673	Priest Rapids Pool‡*	Sec. 2/3, T13N, R23E	Conservancy
4674	Rimrock Lake‡*	T13/14, R12, 13, 14E	Conservancy
4675	Clear Lake	Sec. 1/2/11/12, T13N, R12E	Conservancy
4676	Lake Aspen	Sec. 11/14, T13N, R18E	Urban
4677	Willow Lake	Sec. 11/14, T13N, R18E	Urban
4678	Big Elton Pond	Sec. 31, T14N, R19E	Rural
4679	Bumping Lake‡*	T16N, R12E	Conservancy
4680	Unnamed Lake (CB-E-301)	Sec. 35, T12N, R19E	Conservancy#
4681	Unnamed Lake (CB-E-300)	Sec. 21, T11N, R20E	Rural
4682	Unnamed Lake (PS-E-311)	Sec. 17, T11N, R20E	Rural#
4683	Mt. Adams Lake☼	Sec. 20, T9N-R12E	Natural
4684	Two Lakes – Upper☼	Sec. 8 T10N- R11E	Natural
4685	Two Lakes – Lower☼	Sec. 15 T10N- R11E	Natural
4686	Fish Lake☼	Sec. 7, T10N- R12E	Natural
4687	Mud Lake◊	Sec. 27, T10N- R18E	Conservancy
4688	Howard Lake☼	Sec. 31, T11N- R12E	Natural
4689	Leech Lake‡	Sec. 2, T13N- R11E	Conservancy
4690	Twin Sisters lakes†	Sec. 3, T14N- R12E	Natural
4691	Pear Lake†	Sec. 3, T14N- R12E	Natural
4692	Dog Lake‡	Sec. 32, T14N- R12E	Conservancy
4693	Cougar Lake †	Sec. 4, T15N- R11E	Natural
4694	Dewey Lake †	Sec. 30, T16N- R11E	Natural
4695	Swamp Lake †	Sec. 33, T16N- R11E	Natural
4696	Slaughterhouse Lake◊	Sec. 25, 26 T9N – R22E	Rural#
4697	Unnamed Lake◊	Sec. 20 T9N – R22E	Rural#
4698	Unnamed Lakes X4◊	Sec. 6/7/8/17/18, T9N, R22E	Rural#
4699	Buchanan Lake	Sec. 20 T13N, R19E	Urban#
4700	Unnamed Lake◊ (Parker Pits)	Sec. 20, T12N, R19E	Rural#
4701	Unnamed Lake (Selah Gravel Pits)	Sec. 30, 31, T14N, R19E	Rural#
4702		Sec. 6, T13N, R19E	
4703	Unnamed Lake (Grandview WWTP x3)	Sec. 2, T8N, R23E	Rural
4704	Unnamed Lake◊ (Graham & Morris pits)	Sec. 32 T11N R20E	Rural
4705	Unnamed Lake (Cowiche Reservoir)	Sec. 11 T14N R16E	Rural

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