

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 13-2010

**IN THE MATTER OF AMENDING YCC TITLE 15, THE YAKIMA COUNTY ZONING ORDINANCE
AND YCC TITLE 14 THE YAKIMA COUNTY SUBDIVISION ORDINANCE**

WHEREAS, the Growth Management Act, RCW 36.70A.130(2)(a), allows counties to amend their comprehensive plans no more frequently than once a year; and

WHEREAS, pursuant to YCC 16B.10, Yakima County provides the process for considering amendments to **Plan 2015** and development regulations on an biennial basis; and

WHEREAS, in accordance with YCC 16B.10, six (6) text amendment proposals were docketed for consideration in the 2010 round of amendments; and

WHEREAS, the Yakima County Planning Commission considered the six text amendment in light of Planning Division staff recommendations and public and agency comments received in writing and at duly advertised public hearing held on May 19, 2010 and continued to May 24, 2010 to allow for additional testimony; and

WHEREAS, after deliberating on the proposed amendments, the Planning Commission issued its *Findings of Fact and Recommendation* dated July 29, 2010 for consideration by the Board of Yakima County Commissioners (the Board); and

WHEREAS, the SEPA Responsible Official reviewed the potential environmental impacts of the proposals, issued a *Mitigated Determination of Non-Significance* and *Notice of Adoption of Existing Environmental Documents* on October 4, 2010 for comment, and after considering all comments received, retained said notice and MDNS on October 21, 2010; and

WHEREAS, the Board held duly advertised public hearing on November 2, 2010 on the six text proposals that involve amendments to **Plan 2015**, YCC Title 15, YCC Title 14; and

WHEREAS, the Board deliberated on the six proposed amendments on November 17, 2010 after considering all written comments received, the testimony at its public hearing, the Planning Commission's findings and recommendations, and Planning Division staff recommendations; now, therefore,

BE IT HEREBY ORDAINED BY THE BOARD OF YAKIMA COUNTY COMMISSIONERS:

Section 1. Findings. The Board adopts the *Findings of Fact and Recommendation* of the Planning Commission in the record of this ordinance, except as noted herein:

- A. TXT10-03 – Prior Divisions (YCC Title 14) The Board hereby adopts the findings and recommendations of the Planning Commission and staff supporting approval of the recommended amendments to the prior division language found in Section YCC Title 14 - Subdivision Ordinance, with changes to Sections 14.04.070, 14.04.135 and addition of a new Section 14.12.100 as noted in Section 2 of this ordinance.
- B. TXT10-04 – Financial Segregations (YCC Title 14) -The Board adopts the findings and recommendations of the Planning Commission and staff supporting approval of the recommended amendments to Section 14.04.070 (Qualified Exemptions) in YCC Title 14 - Subdivision Ordinance, with changes as noted in Section 3 of this ordinance.
- C. TXT10-05 - Conservation Lots (YCC Title 14) - The Board declines to adopt the recommendation of the Planning Commission and staff to amend YCC Title 14 - Subdivision Ordinance pertaining to conservation lots at this time to allow further review of the proposal as part of a broader update of the Subdivision Code.
- D. TXT10-07- Agricultural Tourist Operations (YCC Title 15) - The Board hereby adopts the findings and recommendations of the Planning Commission and staff supporting approval of the recommended amendments to Definitions, Regulatory Notes and the Table of Allowable Land uses in YCC Title 15, the Yakima County Zoning Ordinance, with changes as noted in Section 4 and Exhibit 1 of this ordinance.
- E. TXT10-08 - Boundary Line Adjustments (YCC Title 14) - Board declines to amend YCC Title 14 - Subdivision Ordinance pertaining to boundary line adjustments at this time to allow further review of the proposal as part of a broader update of the Subdivision Code.
- F. TXT10-09 – Home Occupations (YCC Title 15) - The Board declines to adopt the recommendations of the Planning Commission and staff to amend the Comprehensive Plan and YCC Title 15 the Yakima County Zoning Ordinance pertaining to home occupations at this time to allow further review of the proposal as part of a broader update of the Zoning Code.
- G. State Environmental Policy Act (SEPA). The SEPA Responsible Official has reviewed the potential adverse environmental impacts of the proposed amendments in accordance with the provisions of YCC 16, culminating in a Final Determination on October 21, 2010 to retain his Mitigated Determination of Non-significance and a Adoption of Existing Environmental Documents issued on October 4, 2010. The Board finds that environmental review is complete and adequate.

Section 2. TXT10-03 – Prior Divisions and TXT 10-04 – Financial Segregations. The text of the Yakima County Subdivision Ordinance (YCC Title 14) shall be amended by deleting the ~~strikethrough~~ text in YCC 14.04.070, 14.08.135 and 14.08.175 as indicated below and by adding the following new Section 14.12.100 shown in underlined text:

2A. Section 14.04.070 of YCC Title 14 is amended as follows:

14.04.070 Qualified Exemptions. The Administrator may exempt the following actions from the requirements of this title as not constituting a division of land into lots, tracts, parcels, sites or divisions for the purpose of sale or lease. This exemption is available only for those actions which do not contravene the spirit of this title or of state law. In determining whether specific actions may be exempt, the Administrator may require pertinent instruments, court orders, affidavits and the like to be maintained in a permanent file of all qualified exemption applications. Exemption applications shall be notarized and accompanied by an application fee as specified in ~~Chapter 3.32 of this code~~ YCC Title 20.

- (1) A division of land by simultaneous merger of a fractional part of land into land contiguous on more than a single point so long as no lot, tract, parcel, site or division is rendered nonconforming with applicable zoning ordinance provisions.
 - (a) 'By simultaneous merger" for purposes of this section, means a specific declaration of merger with the new description of said lands contained within the correction deed or instrument of sale, lease or transfer. The deed or instrument shall be filed for record by the applicant in the county auditor's office. No such merged fractional part may thereafter be sold, leased, transferred or developed through building permit or other development permit as a division separate or distinct from the land into which it is merged without prior short plat approval.
 - (b) Said exemption shall become null and void if the filing of the deed or instrument is not accomplished within one hundred eighty (180) days from the grant of the exemption.
- (2) A division provided for by law not for the purpose of sale or lease including, in the absence of the Administrator finding circumstances to the contrary, ~~the following:~~
 - (a) ~~Financial segregations which do not involve a division of land through transfer of fee simple title. This exemption is limited to mortgages or deeds of trust executed solely for the purpose of securing financial obligations that are conducted in all respects in compliance with the laws governing same.~~
 - (b) ~~A division by court order limited to the following and not including voluntary transfers of land in lieu of compliance with the applicable judicial procedures governing them; mortgage or deed of trust foreclosures, and property distributions between spouses pursuant to separation of dissolution proceedings.~~
 - (c) ~~A division by transfer made under threat of imminent foreclosure proceedings; provided, that: The deed of trust or mortgage was a bona fide financial arrangement which was not executed for the purpose of sale or lease and which was granted a financial segregation exemption; the division meets the requirements of subsections (1) and (2) of Section 14.12.050; and foreclosure proceedings would result in the transfer of property by court order in any event.~~
 - (3) ~~A prior division of land as defined by Section 14.08.175 of this title.~~

2B. Section 14.08.135 of YCC Title 14 is amended as follows:

14.08.135 Land. "Land" is a legally created lot, tract, parcel, site or division which is shown on an officially recorded plat or short plat, or is specifically described as a separate unit of property on a deed executed prior to May 28, 1975., or constitutes a prior division of land as defined by Section 14.08.175. If a deed requires a determination whether separate units of property are in fact described therein, application for prior division exemption shall be made in the same manner prescribed for contracts in subsection (1) of Section 14.08.175.

2C. Section 14.08.175 of YCC Title 14 is amended as follows:

14.08.175 Prior Division of Land. "Prior division of land" is any of the following:

- (1) A division initiated by sale, lease, transfer or option contract executed prior to May 28, 1975, which presently remains a binding and enforceable commitment as between the parties thereto, their successors or assigns. If the applicable instrument does not specifically designate separate units of property but does describe separate and defined lots, tracts, parcels, sites or divisions of land which are contiguous, they shall constitute prior divisions of land only if each conforms with Yakima County Zoning Ordinance No. 8-1974 (Title 15 of this code) lot size and width requirements in effect at the time of application for exemption and each is provided with adequate access pursuant to Section 14.12.040(5)(b).
- (2) A taxation parcel of any size which is surrounded by divisions of land as defined by subsection (1) of this section.
- (3) A taxation parcel of any size which was created prior to May 28, 1975, for the purpose of creating divisions of land which were exempt from platting requirements. Taxation parcels which were administratively created by the assessor's office solely for tax purposes shall not be afforded the status of prior divisions for subdivision purposes. Examples of taxation parcels created solely for tax purposes include senior citizen segregations; special district segregations; deed of trust or mortgage segregations administratively effected by one other than the landowner or agent; and segregations for tax exemption purposes.
- (4) A taxation parcel created in the assessor's office for description purposes because of section lines if it conforms with Yakima County Zoning Ordinance No. 8-1974 (Title 15 of this code) lot size and width requirements in effect at the time of application for exemption.
- (5) A parcel of land that is physically separated by a road, canal or the like when the road, canal, etc. is owned by other than the landowner.

2D. Section 14.12.100 YCC Title 14 is amended to include a new section pertaining to divisions by intervening ownership as follows shown in underlined text:

14.12.100 Subdivision by intervening ownerships. A parcel of land may be subdivided without meeting minimum lot size, dimension or density standards of the zoning district when a different intervening in-fee ownership physically separates that parcel by a:

- (1) Paved, opened road right-of-way;
- (2) State highway; or
- (3) Primary irrigation district canal or major sublateral.

Section 3 TXT 10-07- Agricultural Tourist Operations. The Text of YCC Title 15, the Yakima County Zoning Ordinance (Chapter 15.08 Definitions, Section 15.18 030 Regulatory Notes and the Table of Allowable Land Uses) shall be amended as follows to reflect the new definitions related to Agricultural Tourist Operations, wineries, breweries and distilleries:

3A. Chapter 15.08 Definitions. YCC Title 15 is amended as follows. Deletions are shown by ~~strikethrough~~ text and additions are shown in underlined text.

15.08.053 Agricultural Tourist Operation. “Agriculture tourist operation” refers to a working farm or any agricultural, horticultural or agribusiness operation that is open to the public for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation. The retail sales of agricultural related products, grown or produced onsite is considered accessory and subordinate to the agricultural operation.

~~A basic Agricultural Tourist Operation is considered a Type 1 permitted use within the AG zone.~~

~~(2) (1) “Retail Winery” or “Agricultural Tourist Operation” is one that may include, in addition to those accessory uses associated with a Basic Winery or Agricultural Tourist Operation, eating and food preparation amenities facilities along with a Bed and Breakfast Inn, Boarding House, and/or event facilities for seminars or other small social gatherings up to 1,500 square feet, indoors and outdoors. Meals shall only be served to guests taking lodging or attending events.~~

~~(3) (2) “Destination Winery” or “Agricultural Tourist Operation” is one that may include, in addition to those accessory uses associated with a basic or retail operation, overnight lodging facilities for 12 or fewer units, and/or event facilities for seminars, small weddings and other social gatherings not to exceeding 1,500 7,500 square feet indoors and outdoors.~~

~~(4) (3) “Resort Winery” or “Agricultural Tourist Operation” is one that consists of an assortment of uses over and above any uses associated with a basic, retail or destination level operation. These accessory uses can be anything of a resort nature that enhances the tourist related experience, including but not limited to greater than 12 overnight units, full scale restaurant facilities, and/or event facilities for seminars, small weddings and other social gatherings exceeding 7,500 square feet indoors and outdoors, and RV accommodations. A Resort Winery or Agricultural Tourist Operation is reviewed under the Master Planned Resort (MPR) provisions of the zoning ordinance.~~

15.08.055 Agriculturally Related Industry. “Agriculturally related industry” means those industrial uses directly related to the packaging, processing, storage, or physical or chemical alteration of the agricultural product. Such industries include, but are not limited to: cold storage plants, controlled atmosphere, produce packing and processing facilities, ~~wineries and their accessory uses such as tasting and sales rooms.~~ (Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.08.137 Brewery – Domestic. A “domestic brewery” means a facility where more than 60,000 barrels or more of beer are processed and manufactured per year. A domestic brewery can include hop fields, grain fields, tasting and sales rooms. (Definition based on RCW 66.24.240(1))

15.08.138 Brewery – Micro. A “micro brewery” means a facility where less than 60,000 barrels of beer are processed and manufactured per year. A microbrewery can include hop fields, grain fields, tasting and sales rooms. (Based on RCW 66.24.244 (1))

15.08.206 Distillery – Craft. A “craft distillery” means a facility where less than 20,000 gallons of spirits are processed and manufactured per year. A craft distillery can include fields, tasting and sales rooms. (Based on RCW 66.24.140(1))

15.08.207 Distillery. A “distillery” means a facility where more than 20,000 gallons of spirits are processed and manufactured per year. A craft distillery can include fields, tasting and sales rooms. (Based on RCW 66.24.140(1))

15.08.449 Nonagricultural Use. “Nonagricultural use” means one that does not meet the definition of agriculture listed under YCC 15.08.060.

15.08.657 “Winery” means and includes the following types: (1) “Basic Winery – Basic” means a facility where less than 250,000 Liters of wine is processed and manufactured per year. fruit, usually grapes, is processed into wine. Basic wineries can include vineyards, tasting and sales rooms. (Definition based on RCW 66.24.170 (1))

(2) “Retail Winery” or “Agricultural Tourist Operation” is one that may include, in addition to those accessory uses associated with a Basic Winery or Agricultural Tourist Operation, eating and food preparation amenities along with a Bed and Breakfast Inn, Boarding House, or event facilities for seminars or other small social gatherings up to 1,500 square feet.

(3) “Destination Winery” or “Agricultural Tourist Operation” is one that may include, in addition to those accessory uses associated with a basic or retail operation, overnight lodging facilities for 12 or fewer units, or event facilities for seminars, small weddings and other social gatherings exceeding 1,500 square feet.

(4) “Resort Winery” or “Agricultural Tourist Operation” is one that consists of an assortment of uses over and above any uses associated with a basic, retail or destination level operation. These accessory uses can be anything of a resort nature that enhances the tourist related experience, including but not limited to greater than 12 overnight units, full scale restaurant facilities, and RV accommodations. A Resort Winery or Agricultural Tourist Operation is reviewed under the Master Planned Resort (MPR) provisions of the zoning ordinance.

(Ord. 15-2007 § 3(C) (part), 2007).

15.08.659 Winery “Winery” means a facility where more than 250,000 Liters of wine is processed and manufactured per year. Wineries can include vineyards, tasting and sales rooms. Definition based on RCW 66.24.170(1)

3B. Section 15.18.030 Regulatory Notes. YCC 15.18.030(dd) is hereby amended as follows. Deletions are shown by ~~strike-through~~ text and additions are shown in underlined text.

(dd) Agricultural Tourist Operation or Wineries, as defined in Section 15.08.053 shall be subject to the following minimum requirements:

- (a) Agricultural Tourist Operation or Winery – Retail.
 - (i) Indoor event facilities shall be no larger than 1,500 square feet.
 - (ii) ~~To the extent possible, parking required for event facilities shall be shared with other general parking on site.~~
 - (iii) The facilities and permanent parking shall be located and designed so they will not interfere with agricultural operations on the site of the proposed use or on nearby properties.
~~(iv-iii) The facilities and permanent parking shall be located within the general area already developed for buildings and residential uses and shall not convert more than one acre of agricultural land to nonagricultural uses. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses.~~
- (b) Agricultural Tourist Operation or Winery – Destination.
 - (i) ~~To the extent possible, parking required for event facilities shall be shared with other general parking on site.~~
 - (ii) The facilities and permanent parking shall be located and designed so they will not interfere with agricultural operations on the site of the proposed use or on nearby properties.
~~(iii) The facilities and permanent parking shall be located within the general area already developed for buildings and residential uses and shall not convert more than one acre of agricultural land to nonagricultural uses. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses.~~
- (c) Agricultural Tourist Operation - Resort
 - (i) Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses.
 - (ii) The project shall be reviewed under the Master Planned Resort (MPR) provisions of the zoning ordinance.

3C. Table of Allowable Land Uses 15.18. YCC 15.18.030 is hereby amended as indicated on the attached Exhibit 1. Deletions are shown by ~~strike-through~~ text and additions are shown in underlined text.

Section 4. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This ordinance shall be effective at 11:59 PM on December 14, 2010.

ADOPTED this 14th day of December, 2010.



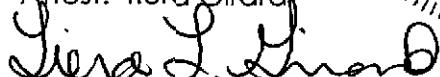

Michael D. Leita, Chairman

Excused


Kevin Bouchey, Commissioner


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

Attest: Tiera Girard,



Clerk of the Board

APPROVED AS TO FORM:

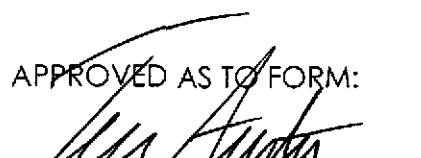

Deputy Prosecuting Attorney

EXHIBIT 1

**Table 15.18
Allowable
Land Uses**

	Agricultural	Forest Watershed	Mountain Rural	Valley Rural	Remote/ELDP	Rural Transitional	One-Family Residential	Two-Family Residential	Multi-Family Residential	Rural Settlement	Professional Business	Local Business	Commercial	Highway/Tourist Commercial	Industrial	Mining
	AG	FW	MR	VR	R/EL	RT	R1	R2	R3	RS	B1	B2	C	HC	I	MIN
AGRICULTURE & FORESTRY (COMMERCIAL)																
Agriculture*, silviculture, and animal feeding operations* <u>(Excluding:</u> Concentrated animal feeding operations*, livestock auction/sale yards, rendering plants and slaughter houses)																
(a)	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Agricultural market*	II		II	II	III					II		II	I	I	II	
Agricultural stand* (b)	I		I	I	I	II	II			I		I	I	I	I	I
Agricultural service establishments*	II	III	III	II						II						
Agricultural-Tourist Operation* (dd)	I			II	II											
Agriculturally-related industry*	I			II	III					II			II		I	
Aquaculture*	I	II	II	II	II	III	III						II		II	II
Basic Winery * (dd)	I			II	III					II			I		I	
Brewery -Domestic*	I			II	III					II			II		I	
Brewery - Micro*	I			II	III					II			I		I	
Concentrated animal feeding operations*	II			III	II										II	
Distillery – Craft*	I			II	III					II			I		I	
Distillery*	I			II	III					II			II		I	
Farm labor center* (c)	II			III												
Farm labor shelters* (c)	I			II												
Forest industries*		I	III		II										II	
Irrigation distribution/drainage facilities*	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Livestock auction/sale yards	II		III	III	II										II	
Retail Winery or AG Tourist Operation*(dd)	II			II	III								I			
Destination Winery or AG Tourist Operation*(dd)	III			III	III								II			
Resort Winery or AG Tourist Operation*(dd)	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV	IV
Winery*	I			II	III					II			II		I	