

1 **BOARD OF YAKIMA COUNTY COMMISSIONERS**

2
3 **ORDINANCE NO. 1-2011**

4
5 **IN THE MATTER OF AMENDING YCC TITLE 16C, THE CRITICAL AREAS**
6 **ORDINANCE OF YAKIMA COUNTY AND THE YAKIMA COUNTY**
7 **COMPREHENSIVE PLAN – PLAN 2015**

8
9
10 WHEREAS, the GMA requires Yakima County to review and evaluate its development
11 regulations and to take legislative action, if needed, to revise its development regulations to ensure they
12 comply with the requirements of, and time periods in, RCW 36.70A; and
13

14 WHEREAS, Yakima County adopted amendments (Ordinance No. 13-2007) to the Yakima
15 County Critical Areas Ordinance (YCC Title 16C) and to the Comprehensive Plan 2015 (Ordinance No.
16 15-2007) in December 2007 as part of the required seven year plan update requirement of the Growth
17 Management Act; and,
18

19 WHEREAS, in February 2008, a number of petitioners appealed the adoption of the two
20 ordinances to the Eastern Washington Growth Management Hearings Board (EWGMHB) in consolidated
21 Case No. 08-1-0008c, alleging that certain provisions of both ordinances failed to comply with certain
22 provisions of the GMA, codified as chapter 36.70A RCW; and,
23

24 WHEREAS, the EWGMHB issued its Final Decision and Order in case No. 08-1-0008c on April
25 5, 2010 concluding that certain of the provisions of Ordinance 13-2007 and Ordinance 15-2007 appealed
26 by the petitioners failed to comply, including those related CARAs the allowance of certain non-
27 agricultural accessory uses without limiting such uses as required by RCW 36.70A.177; and,
28

29 WHEREAS, Yakima County has proposed text amendments to *Plan 2015* policy LU-ER-AG 1.5
30 to comply with the EWGMHB Final Decision and Order and RCW 36.70A.177; and,
31

32 WHEREAS, Yakima County has proposed text amendments to YCC Title 16C.09 regarding
33 CARA to comply with the EWGMHB Final Decision and Order and RCW 36.70A; and,
34

35 WHEREAS, following the appeal of the 2007 amendments to the CAO and Comp. Plan 2015,
36 Yakima County adopted two more amendatory ordinances further amending the CAO (Ordinance No. 2-
37 2009) and its development regulations October 13, 2009, as a result of negotiations between parties
38 involved with the Hearings Board Case No. 8-1-0008c; and,
39

40 WHEREAS, Wes Hazen, Upper Wenas Preservation Association, and Futurewise (Petitioners)
41 submitted a Petition for Review (PFR) of Ordinance No. 2-2009 to the EWGMHB, which the EWGMHB
42 designated as Case No. 09-1-0014; and,
43

44 WHEREAS, the 2009 Petitioners set forth four issues alleging the County's amendments violate
45 certain provisions of the Growth Management Act (GMA); and,
46

47 WHEREAS, the EWGMHB issued its FDO on June 14, 2010 and found and concluded that the
48 Petitioners carried their burden of proof on certain of the issues and held that the exemptions found in the
49 County CAO at YCC 16C.03.09(a) and (e) are non compliant with RCW 36.70A.060(2) and RCW
50 36.70A.172; and,

51
52 WHEREAS, in its June 14, 2010 FDO the EWGMHB additionally found and concluded that the
53 use of the word "may" in YCC 16C.060(1), as opposed to "shall" or "will," makes that sentence
54 permissive, provides for essentially unbounded discretion on the part of the Administrative Official and
55 this unbounded discretion on the part of the Administrative Official violates 36.70A.060 (2) and
56 36.70A.172 (1); and,
57

58 WHEREAS, the County has been ordered by the EWGMHB to bring its Plan policy and Critical
59 Areas Ordinance impacted by the FDOs into compliance with the GMA; and,
60

61 WHEREAS, the County has prepared amendments to YCC Title 16C in order to comply with the
62 EWGMHB's April 5 and June 14, 2010 FDOs; and,
63

64 WHEREAS, the Yakima County SEPA Responsible Official issued a Determination of
65 Nonsignificance (DNS – SEP10-053) for the proposed edits to Title 16C, regarding critical aquifer
66 recharge areas on January 11, 2011; and,
67

68 WHEREAS, the comment period on the Determination of Nonsignificance and on the proposed
69 amendments closed on January 25, 2011; and, and a Final Determination of Nonsignificance was issued
70 on March 4, 2011 without further comment period; and,
71

72 WHEREAS, the Yakima County SEPA Responsible Official issued a Determination of
73 Nonsignificance (DNS – SEP10-054) for the proposed edits to Title 16C, regarding upland wildlife
74 habitat areas on January 20, 2011; and,
75

76 WHEREAS, the comment period on the Determination of Nonsignificance and on the proposed
77 amendments closed on February 3, 2011; and, and a Final Determination of Nonsignificance was issued
78 on March 4, 2011 without further comment period; and,
79

80 WHEREAS, the Yakima County SEPA Responsible Official issued a Determination of
81 Nonsignificance (DNS – SEP10-052) for the proposed edits to Title 16C, regarding non-agricultural uses
82 on January 10, 2011; and,
83

84 WHEREAS, the comment period on the Determination of Nonsignificance and on the proposed
85 amendments closed on January 24, 2011 and a Final Determination of Nonsignificance was issued on
86 March 4, 2011 without further comment period; and,
87

88 WHEREAS, the Board of Yakima County Commissioners held three properly advertised public
89 hearing on March 1, 2011 at the Yakima City Hall Hearing Room, 129 N. 2nd Street Yakima, WA, for the
90 purpose of taking testimony on the proposed amendments to the Yakima County Critical Areas Ordinance
91 and Comprehensive Plan – *Plan 2015* Policy LU-ER-AG 1.5; and,
92

93 WHEREAS the Board received no public testimony on the proposed amendments; and,
94

95 WHEREAS, the Board, has carefully considered written testimony of agencies and
96 recommendations from staff; and,
97

98 WHEREAS, the Board is now satisfied that this legislative matter has been sufficiently
99 considered, and that the process leading to the development of the amended Critical Areas Ordinance and
100 Comprehensive Plan – *Plan 2015*, has been open, extensive, continuous and afforded opportunities to all
101 who wanted to participate or offer testimony; and,
102

103 WHEREAS, the Board has, at a properly advertised agenda, deliberated on the proposed
104 amendments, weighed the evidence presented, balanced the goals of the GMA and the desires of the
105 citizens of Yakima County in a final set of amendments to YCC Title 16C and the Comprehensive Plan –
106 *Plan 2015*; and,

107
108 WHEREAS, the Board of Yakima County Commissioners further finds and concludes that
109 adoption and implementation of the amendments to the YCC Title 16C and the Comprehensive Plan –
110 *Plan 2015* to be in the public interest and essential to direct the future growth and development of
111 Yakima County, consistent with the County's Comprehensive *Plan 2015*: now, therefore,

112
113 **BE IT HEREBY ORDAINED:**
114

115 **Section 1. Findings.** The Board of Yakima County Commissioners finds that all statutory and County
116 prerequisites for the review and evaluation of YCC Title 16C and the Comprehensive Plan – *Plan 2015*,
117 Policy LU-ER-AG 1.5 as well as the requirements for ensuring adequate public notification and
118 opportunities for comment and participation in the amendment process, have been met. The Board makes
119 the following findings:

- 120
121 A. The Board hereby adopts the proposed changes, outlined in Section 2 of this ordinance below,
122
123 B. State Environmental Policy Act (SEPA). The SEPA Responsible Official has reviewed the
124 potential adverse environmental impacts of the proposed amendments in accordance with the
125 provisions of YCC Title 16, culminating in Final Determinations to retain the three
126 *Determinations of Non-significance* issued on March 4, 2011. The Board finds that environmental
127 review is complete and adequate.
128
129 C. Legislative Intent. The Board of Yakima County Commissioners finds that it has fully considered
130 the evidence presented throughout the public process of updating, adopting and amending YCC
131 Titles 16C and the Comprehensive Plan – *Plan 2015* Policy LU-ER-AG 1.5 to fulfill the
132 requirements of State law. The Board reaffirms that it has considered the best available science
133 documentation in its decisions and finds the record to be compelling in its support of the
134 designation and protection of critical areas and the balancing of the public and private interests as
135 expressed by the adopted Critical Areas Ordinance and the amendments herein contained.
136

137 **Section 2. Adoption.** The document attached hereto as **Exhibit A** and entitled *Proposed Amendments to*
138 *the County Comprehensive Plan and YCC Title 16C, the Critical Areas Ordinance*, is hereby adopted as
139 an official control required by RCW 36.70A. The amendments shall be made to YCC Title 16C and
140 codified as a new YCC Title 16C. YCC Title 16C shall apply to all unincorporated lands under Yakima
141 County's land use jurisdiction, except for lands under jurisdiction of the Shoreline Management Act
142 (RCW 90.58) and requirements of Substitute Senate Bill 5248 for agricultural activities conducted on
143 agricultural and rural lands.
144

145 **Section 3. Retention.** To meet the requirements of Substitute Senate Bill 5248, the existing CAO,
146 codified as YCC Title 16A shall be retained for the regulation of agricultural activities on designated
147 agricultural and rural lands.
148

149 **Section 4. Severability.** If any section, sentence, clause, or phrase of the amended Comprehensive Plan
150 Policy and YCC Title 16C as contained in Exhibit A to this ordinance should be held to be invalid or
151 unconstitutional by anybody or court with authority and jurisdiction, such invalidity or unconstitutionality
152 shall not affect the validity or constitutionality of any other section, clause or phrase of the adopted YCC
153 Title 16C or the Comprehensive Plan – *Plan 2015*.
154

155 **Section 6. Effective Date.** This ordinance as amended by Section 2 herein and Exhibit A shall be
156 effective at 12:01 a.m. on **March 9, 2011.**

157
158 Dated this 4th day of March 2011

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162
163 ATTEST:
164 Tiera Girard
165 Clerk of the Board

166
167
168 Approved as to form only:
169 James P. Hagarty
170 Yakima County Prosecuting Attorney

171
172 By: Terry D. Austin
173 Terry D. Austin
174 Chief Civil Deputy Prosecuting Attorney

Kevin Bouchey
Kevin Bouchey, Chairman

J. Rand Elliot
J. Rand Elliot, Commissioner

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

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EXHIBIT A to Ordinance No, 1-2011

Section 1. Amendments to the Yakima County Comprehensive Plan (~~strike through text is deleted;~~ underlined text is added language):

Policy LU-ER-AG 1.5 is hereby amended to read as follows:
(~~Strike through text is deleted;~~ underlined text is added language):

Allow for accessory uses, including non-agricultural accessory uses that support, promote, or sustain agricultural operations and production. ~~Such accessory uses may include bed & breakfasts, boarding houses, restaurants, event facilities, and other amenities that are determined to support agriculturally-related entrepreneurial efforts.~~ All new accessory uses, including non-agricultural accessory uses must meet the full requirements of RCW 36.70A.177, as it currently exists or may hereafter be amended.

Section 2. Amendments to YCC Title 16C, the Yakima County Critical Areas Ordinance (~~Strike through text is deleted;~~ underlined text is added language):

A. Chapter 16C.03.05 Minor Activities Allowed without a Permit or Exemption is amended by adding the following to subsection (1):

h) ~~_____~~
stock fences, outdoor recreation, etc.

B. Chapter 16C.02.09 Exemptions for Upland Wildlife Habitat and Habitats of Local Importance is amended by deleting subsection (a):

(a) ~~Agricultural and other accessory uses or structures that maintain the existing natural vegetation (rangeland, grazing, stock fences, outdoor recreation, etc.)~~

Section 3. Amendments to YCC Title 16C, the Yakima County Critical Areas Ordinance (~~Strike through text is deleted;~~ underlined text is added language):

Chapter 16C.11.060 Permit and Critical Areas Report Requirement is amended by revising subsection (1) to read as follows:

- 1) Developments proposed within an upland wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species or a species of local importance has a primary association may be required to submit Critical Areas Identification Form and site plan as per 16C.03.02(1). The Administrative Official ~~may~~ shall require a habitat assessment to be submitted if it is determined that the development proposal could impact the UWHCA. 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 has a primary association.

Section 4. Amendments to YCC Title 16C, the Yakima County Critical Areas Ordinance
(Strike-through text is deleted; underlined text is added language):

Chapter 16C.09. Critical Aquifer Recharge Areas (CARAs) is amended to read as follows:

**Chapter 16C.09.
CRITICAL AQUIFER RECHARGE AREAS (CARAs)**

Sections:

16C.09.01 Purpose and Intent
~~16C.09.02~~ Designation
~~16C.09.0203~~ Mapping
~~16C.09.03~~ Protection Approach
~~16C.09.04~~ References
~~16C.09.03~~ Protection Approach
~~16C.09.04~~ References
16C.09.04 Submittal requirements
16C.09.05 Performance standards – General requirements
16C.09.06 Performance standards – Specific uses
16C.09.07 Uses prohibited from critical aquifer recharge areas

16C.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 covered under existing County review processes and have detailed permit review by another agency covered under existing County review processes and have detailed permit review by another agency regulated by the Washington Department of Health and Yakima County Health District as mandated by WAC 246-270, 271, 272, 272A, 272B, 272C and 273 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 YCC Title 12.10 as required by Washington Department of Ecology's Eastern Washington Phase II Municipal Stormwater Permit ~~County review processes and have detailed permit review,~~ or;
- f) require review for uses that do not need building permits and/or zoning review.

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

16C.09.02 Designation

Critical aquifer recharge areas (CARA) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. The following areas have been identified based on local conditions.

- 1) Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten-year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135
- 2) Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.
- 3) Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.
- 4) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.
- 5) Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.
- 6) Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology.

16C.0902.03 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 "~~Critical Aquifer Recharge Area- Guidance Document~~Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances" (Publication #97-3005-10-028). ~~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. ~~Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances~~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.

16C.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 16C.06 (Fish and Wildlife Habitat and the Stream Corridor System), including section 16C.06.10 (Prohibited Uses); the Shoreline Use Table in YCC Title 16D, 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 provide the most comprehensive list possible to inform project applicants of the requirements of other agencies.
- 4) The Administrative Official shall also develop and maintain a table of land uses with the potential of being subject to the relevant laws noted above. The table shall be generated and maintained using the intent stated in 16C.09.01(4) (Purpose and Intent).
- 5) The Administrative Official and Building Official shall cooperatively develop questionnaires, to be filled out by new development permit applicants, which comprehensively establish the potential use, storage, and handling methods within the project for substances that have the potential to contaminate groundwater. The questionnaires are intended to ensure full application of existing building and construction codes related to such substances in order to forestall new regulations.
- 6) The Administrative Official and Building Official shall develop technical assistance and information materials to assist landowners and developers with understanding and meeting relevant existing federal, state, and local laws relating to CARAs.

16C.09.04 Submittal requirements

- 1) Applications for any development activity or division of land which requires review by Yakima County and which is located within a mapped Critical Aquifer Recharge Area or Wellhead Protection Area shall be reviewed by the Administrative Official to determine whether hazardous materials (see definitions) will be used, stored, transported, or disposed of in connection with the proposed activity. If there is insufficient information to determine whether hazardous materials will be used, the Administrative Official may request additional information, in addition to the submittal requirements outlined in 16C.03.
- 2) The Administrative Official shall make the following determination:
 - a) No hazardous materials are involved.
 - b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance.
 - c) Hazardous materials are involved and the proposal has the potential to significantly impact Critical Aquifer Recharge and Wellhead Protection Areas; however, sufficient information is not available to evaluate the potential impact of contamination. The County may require a Hydrogeologic Report to be prepared by a qualified groundwater scientist in order to determine the potential impacts of contamination on the aquifer.

16C.09.03 Protection Approach

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.

~~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 16C.06 (Fish and Wildlife Habitat and the Stream Corridor System), including section 16C.06.10 (Prohibited Uses); the Shoreline Use Table in YCC Title 16D, 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.~~

~~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 provide the most comprehensive list possible to inform project applicants of the requirements of other agencies.~~

~~The Administrative Official shall also develop and maintain a table of land uses with the potential of being subject to the relevant laws noted above. The table shall be generated and maintained using the intent stated in 16C.09.01(4) (Purpose and Intent).~~

~~The Administrative Official and Building Official shall cooperatively develop questionnaires, to be filled out by new development permit applicants, which comprehensively establish the potential use, storage, and handling methods within the project for substances that have the potential to contaminate groundwater. The questionnaires are intended to ensure full application of existing building and construction codes related to such substances in order to forestall new regulations.~~

~~The Administrative Official and Building Official shall develop technical assistance and information materials to assist landowners and developers with understanding and meeting relevant existing federal, state, and local laws relating to CARAs.~~

16C.09.05 Performance standards – General requirements

- 1) Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
- 2) The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Yakima County Health District.

16C.09.06 Performance standards – Specific uses

- 1) Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
 - a) Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - i. Prevent releases due to corrosion or structural failure for the operational life of the tank;

- ii. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
 - iii. Use material in the construction or lining of the tank that is compatible with the substance to be stored.
- b) Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
- i. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
 - ii. Have a primary containment area enclosing or underlying the tank or part thereof; and
 - iii. Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
2. Vehicle Repair and Servicing.
- a. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
 - b. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity.
3. Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.
4. Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology and Health.
- a. Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The State Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).
 - b. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

16C.09.07 Uses Prohibited from Critical Aquifer Recharge Areas.

The following activities and uses are prohibited in critical aquifer recharge areas:

- 1. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste and inert and demolition waste landfills;
- 2. Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
- 3. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
- 4. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;
- 5. Mining. Hard rock; and sand and gravel mining, unless located within the mineral resource designation; and
- 6. Other Prohibited Uses or Activities.

- a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
- b. Activities that would significantly reduce the recharge to aquifers that are a source of significant base flow to a regulated stream; and

Section 5. Amendments to YCC Title 16C, the Yakima County Critical Areas Ordinance (Underlined text is added language):

Chapter 16C.02 Definitions is amended to include the following:

16C.02.061 Hazardous Materials

"Hazardous materials" means any material, either singularly or in combination, that is a physical or health hazard as defined and classified in the International Fire Code, whether the materials are in usable or waste condition; any material that may degrade groundwater quality when improperly stored, handled, treated, used, produced, recycled, disposed of, or otherwise mismanaged; any hazardous waste, hazardous substance, dangerous waste, or extremely hazardous waste that is a physical or health hazard as defined or classified in Chapter 70.105 RCW and Chapter 173-303 WAC, whether the materials are in usable or waste condition; and petroleum or petroleum products that are in a liquid phase at ambient temperatures, including any waste oils or sludge.

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Section 6. Amendments to YCC Title 16C, the Yakima County Critical Areas Ordinance (Underlined text is added language):

Chapter 16C.03.18 Supplemental Report Requirements for Specific Critical Areas is amended by adding the following new subsection (6):

6) Critical Aquifer Recharge Areas When a hydrogeological report is required for CARA, it shall include the following:

- 1) The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer.
- 2) The hydrogeologic report shall be prepared by a hydrogeologist licensed in the state of Washington.
- 3) The report shall contain recommendations on appropriate BMPs (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality.

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