

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE 4-2012

IN THE MATTER OF AMENDING YAKIMA COUNTY CODE TITLE 16, DIVISION I, CHAPTER 16.04, PERTAINING TO THE STATE ENVIRONMENTAL POLICY ACT

WHEREAS, Yakima County Code Title 16, Division I, Chapter 16.04, State Environmental Policy Act (SEPA) procedures were established by adoption of Ordinance 6-1984 and were subsequently amended by Ordinances 5-1996 and 13-1998 to address state model toxic control and regulatory reform legislation; and

WHEREAS, YCC Chapter 16.04, Yakima County's SEPA code, has subsequently become outdated and its procedures no longer support the County's adopted plans and regulations as intended; and

WHEREAS, the Board of Yakima County Commissioners is engaged in a systematic update of several of its adopted codes, in collaboration with internal and external customers, to help improve procedures and regulations consistent with the law; and

WHEREAS, the Board wishes to initiate this Code Update and Simplification Project (CU/SP) by first consolidating and improving procedures for governmental action regarding issuance of project permits and the conduct of environmental review; and

WHEREAS, the Board held a duly advertised public hearing for the purpose of considering the amendments to Yakima County Code Title 16, Division I, Chapter 16.04 and related fees on May 29, 2012, pursuant to Resolution No. 177-2012 dated May 15, 2012, wherein testimony was heard from all persons present who wished to be heard; and

WHEREAS, the Board deliberated on the proposed legislation and text amendments on after considering all written comments received, the testimony at its public hearing, and staff recommendations; and

WHEREAS, the Board is now satisfied that this legislative matter has been sufficiently considered, and that the process leading to adopting the amendments to YCC Chapter 16.04 and related titles has been open, and afforded opportunity to all who wanted to participate or offer testimony; and,

WHEREAS, after considering the testimony and materials presented, the Board believes it is in the best public interest to amend Chapter 16.04 and related titles of Yakima County Code and necessary to maintain compliance with State law; now, therefore,

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

Section 1 Findings. The Board adopts the following findings related to the proposed legislative action as follows:

A. The Board finds that all statutory and County prerequisites for the review and evaluation of YCC Chapter 16.04 and the as well as the requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process, have been met.

B. The Board finds the amendments to Yakima County Code made in Section 2 of this Ordinance are related solely to governmental procedures containing no substantive standards respecting use or modification of the environment. Such exempt procedural actions are exempt from SEPA consistent with WAC 197-11-800 (19).

C. The Board finds that the procedural amendments to Yakima County Code made in Section 2 of this Ordinance are related solely to governmental procedures and as such are not official controls as that term is used in 36.70 RCW.

D. The Board further finds and concludes that adoption and implementation of the procedural amendments to Yakima County Code in Section 2 of this Ordinance to be in the public interest, necessary to maintain compliance with State law and consistent with its objectives for the CU/SP initiative.

Section 2. Adoption.

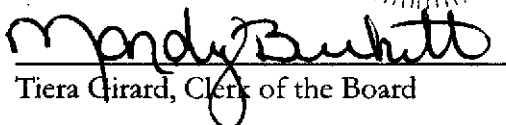
Yakima County Code Title 16, Division I, Chapter 16.04, State Environmental Policy Act (SEPA) is hereby amended to read as set forth in Exhibits "A" and "B" attached hereto.

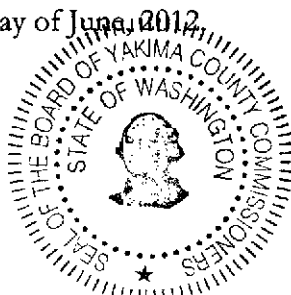
Section 3. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

Section 4. Effective date. This ordinance shall be effective at 12:01 A.M. on July 1, 2012.

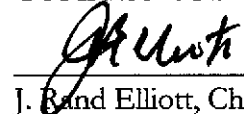
Dated this 5th day of June, 2012.

Attest:


Tiera Girard, Clerk of the Board



BOARD OF YAKIMA COUNTY
COMMISSIONERS


J. Rand Elliott, Chairman


Michael D. Leita, Commissioner



Kevin J. Bouchey, Commissioner
*Constituting the board of County Commissioners for Yakima
County, Washington*

EXHIBIT A
Yakima County Code -- Title 16 Environment
DIVISION I -- CHAPTER 16.04

STATE ENVIRONMENTAL POLICY ACT (SEPA)

Effective October 1, 1984

Ordinance ((~~Number~~)) 6-1984, As Amended

Ordinance ((~~Number~~)) 5-1996, As Amended

Ordinance ((~~Number~~)) 13-1998, As Amended

Ordinance 4-2012

TABLE OF CONTENTS

<u>Article/Sections:</u>	<u>Page</u>
Article I. General Provisions	
16.04.010 Authority.....	4
16.04.020 <u>State rules - Adoption by Reference</u>	4
16.04.030 ((Definitions	5-6))
<u>[This Section number is reserved.]</u>	
16.04.040 Additional Definitions.....	6
16.04.050 Designation of Responsible Official.....	7
16.04.060 Lead Agency Determination and Responsibilities.....	7-8
16.04.065 ((Administrative Procedures for SEPA Applications	8))
<u>[This Section number is reserved.]</u>	
16.04.070 ((Additional Considerations in Time Limits Applicable to the SEPA	
(Process	8-9))
<u>[This Section number is reserved.]</u>	
16.01.080 Additional Timing Considerations.....	8-9
16.04.085 ((SEPA Integration - Use of Existing Comprehensive Plans	
& Development Regulations	9-10))
<u>[This Section number is reserved.]</u>	
16.04.087 ((Planned Actions	10-11))
<u>[This Section number is reserved.]</u>	
Article II. Categorical Exemptions and Threshold Determinations	
((16.04.090 ((Adoption by Reference	11))
<u>[This Section number is reserved.]</u>	
16.04.100 Flexible Thresholds for Categorical Exemptions.....	10-13
<u>16.04.105 Categorical Exemptions for Non-project Proposals</u>	12-13
16.04.110 Use of Exemptions.....	13-14
16.04.120 Environmental Checklist.....	14
16.04.130- ((Mitigated DNS	15-17))
<u>[This Section number is reserved.]</u>	

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE THRU~~))

Article/Sections:	Page
Article III. Environmental Impact Statement (EIS)	
16.04.140 ((Adoption by Reference.....17-18)) <u>[This Section number is reserved.]</u>	
16.04.150 Preparation of EIS -- Additional Considerations.....	17
16.04.160 ((Additional Elements to be Covered by an EIS.....18-19)) <u>[This Section number is reserved.]</u>	
Article IV. Commenting	
16.04.170 ((Adoption by Reference.....19)) <u>[This Section number is reserved.]</u>	
16.04.180 Public Notice.....	18-19
16.04.190 Designation of Official to Perform Consulted Agency Responsibilities for the County.....	19
Article V. Using Existing Environmental Documents	
16.04.200 ((Adoption by Reference.....21)) <u>[This Section number is reserved.]</u>	
16.04.210 SEPA Public Information.....	20
Article VI. SEPA and Agency Decisions	
16.04.220 ((Adoption by Reference.....21)) <u>[This Section number is reserved.]</u>	
16.04.230 Substantive Authority.....	20-23
16.04.240 ((SEPA)) Appeals.....	23
16.04.250 Notice/Statute of Limitations.....	24
((Article VII. Categorical Exemptions	
16.04.260 ((Adoption by Reference.....26) <u>[This Article and Section number is reserved.]</u>	
Article VIII. Agency Compliance	
16.04.270 ((Adoption by Reference.....26-27)) <u>[This Section number is reserved.]</u>	
16.04.280 Fees.....	25
16.04.290 Severability.....	25
Article VIIIX. Forms	
16.04.300 Adoption by Reference.....	26

Appendices

YCC Chapter 16.04 SEPA

G:\ORDINANCES\Code simplification project\SEPA\Hearing drafts\SEPAORDupdateCUSPhearing draft (6).doc 5/8/2012 2:09 PM

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE-THRU~~))

[Staff Note: Appendices are not part of the enactment but are listed here and attached to the printed version of this Title for convenience of the users.]

Appendix A RCW 43.21C

Appendix B WAC 197-11

Appendix C WAC 173-806 Model SEPA Code

Appendix D Hyperlinks to references

Article I. General Provisions

16.04.010 Authority. The County of Yakima adopts the ordinance codified in this Chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904. This Chapter contains this County's SEPA procedures and policies and implements the purposes and policies of SEPA pursuant to RCW 43.21C.010 and 43.21C.020, which are adopted by reference. The ordinance codified in this Chapter also adopts the statewide SEPA rules by reference. The SEPA rules, WAC Chapter 197-11, as identified in the following Section 16.04.020, must be used in conjunction with this Chapter. ((Ord. 6-1984 Part 1 §1, 1984.))

16.04.020 State rules - Adoption by Reference. This Chapter applies to proposals by the County and to County review of, or decisions on, proposals by public or private applicants or other governmental entities. The County adopts the state SEPA rules, Chapter 197-11 WAC as may be amended, by reference, as supplemented by additional or more specific provisions contained in this Chapter and Title 16B, Project Permit Administration. This Chapter must be implemented in conjunction with Title 16B, Project Permit Administration. ((Article contains the basic requirements that apply to the SEPA process. The County adopts the following Sections of Chapter 197-11 of the Washington Administrative Code by reference:

~~WAC 197-11-030~~ Policy

- ~~197-11-040~~ Definitions.
- ~~197-11-050~~ Lead agency.
- ~~197-11-055~~ Timing of the SEPA process.
- ~~197-11-060~~ Content of environmental review.
- ~~197-11-070~~ Limitations on actions during SEPA process.
- ~~197-11-080~~ Incomplete or unavailable information.
- ~~197-11-090~~ Supporting documents.
- ~~197-11-100~~ Information required of applicants.
- ~~197-11-158~~ GMA project review reliance on existing plans and regulations.
- ~~197-11-210~~ SEPA/GMA integration.
- ~~197-11-220~~ SEPA/GMA definitions.
- ~~197-11-228~~ Overall SEPA/GMA integration procedures.
- ~~197-11-229~~ Timing of an integrated GMA/SEPA process.
- ~~197-11-232~~ SEPA/GMA integration procedures for preliminary planning, environmental analysis and expanded scoping.
- ~~197-11-235~~ Documents.
- ~~197-11-238~~ Monitoring (optional).
- ~~197-11-250~~ SEPA Model Toxics Control Act integration.
- ~~197-11-253~~ SEPA lead agency for MTCA actions.
- ~~197-11-256~~ Preliminary evaluation.
- ~~197-11-259~~ Determination of Nonsignificance for MTCA remedial actions.
- ~~197-11-262~~ Determination of Significance and EIS for MTCA remedial actions.
- ~~197-11-265~~ Early scoping for MTCA remedial actions.
- ~~197-11-268~~ MTCA interim actions.

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE-THRU~~))

16.04.030 Reserved ((~~Definitions. This Section contains uniform usage and definitions of terms under SEPA. The County adopts the following sections by reference, as supplemented by WAC 173-806-030:~~

~~WAC 197-11-700 Definitions:~~

~~197-11-702 Act.
197-11-704 Action.
197-11-706 Addendum.
197-11-708 Adoption.
197-11-710 Affected right.
197-11-712 Affecting.
197-11-714 Agency.
197-11-716 Applicant.
197-11-718 Built environment.
197-11-720 Categorical exemption.
197-11-721 Closed record appeal.
197-11-722 Consolidated appeal.
197-11-724 Consulted agency.
197-11-726 Cost-benefit analysis.
197-11-728 County/city.
197-11-730 Decision maker.
197-11-732 Department.
197-11-734 Determination of Nonsignificance (DNS).
197-11-736 Determination of Significance (DS).
197-11-738 EIS.
197-11-740 Environment.
197-11-742 Environmental checklist.
197-11-744 Environmental document.
197-11-746 Environmental review.
197-11-750 Expanded scoping.
197-11-752 Impacts.
197-11-754 Incorporation by reference.
197-11-756 Lands covered by water.
197-11-758 Lead agency.
197-11-760 License.
197-11-762 Local agency.
197-11-764 Major action.
197-11-766 Mitigated DNS.
197-11-768 Mitigated.
197-11-770 Natural environment.
197-11-772 NEPA.
197-11-774 Nonproject.
197-11-775 Open record hearing.
197-11-776 Phased review.
197-11-778 Preparation.
197-11-780 Private project.~~

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE-THRU~~)))

197-11-782 — Probable.
197-11-784 — Proposal.
197-11-786 — Reasonable alternative.
197-11-788 — Responsible Official.
197-11-790 — SEPA.
197-11-792 — Scope.
197-11-793 — Scoping.
197-11-794 — Significant.
197-11-796 — State agency.
197-11-797 — Threshold determination.
197-11-799 — Underlying governmental action

Ord. 6-1984 Part 8 §1, 1984.))

16.04.040 Additional Definitions. In addition to those definitions contained within WAC 197-11-700 when used in this Chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- (1) "County" means the municipal corporation of Yakima County, Washington.
- (2) "Department" means any division, subdivision or organizational unit of the County established by ordinance, rule, or order.
- (3) "Early notice" means the County's written response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (Mitigated Determination of Nonsignificance (DNS) procedures).
- (4) "Ordinance" means the ordinance, resolution, or other procedure used by the County to adopt regulatory requirements.
- (5) "SEPA rules" means WAC Chapter 197-11 adopted by the Department of Ecology.
- (6) "Planning Division" means the Yakima County Planning Division of the Public Services Department.
- (7) "Procedural determination" as used in 43.21C.075 RCW, this Chapter and YCC Title 16B means the County's decision concerning the adequacy of a determination of significance/non-significance or of a final environmental impact statement.
- (8) "Substantive determination" as used in 43.21C.075 RCW, this Chapter and YCC Title 16B means any decision to require particular mitigation measures or to deny a proposal based on this Chapter. ((Ord. 6-1984 Part 2 §2, 1984.))

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((STRIKE-THRU)))

16.04.050 Designation of Responsible Official.

- ((a))(1) For those proposals for which the County is the lead agency, the Responsible Official shall be the Yakima County Director of Planning or his designee.
- ((b))(2) For all proposals for which the County is the lead agency, the Responsible Official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "Responsible Official" by those sections of the SEPA rules that were adopted by reference ((~~in~~ WAC 173-806-020)).
- ((e))(3) For those proposals requiring the specialized expertise of more than one County department, the Responsible Official may request information necessary to discharge his responsibilities under this Chapter from those other departments. Such information as can be reasonably supplied by those departments shall be transmitted to the Responsible Official in a timely manner. ((~~Ord. 6-1984 Part 2 §3, 1984.~~))

16.04.060 Lead Agency Determination and Responsibilities.

- ((a))(1) The Planning Division of the Public Services Department shall be the lead agency within the County receiving an application for or initiating a proposal that involves a nonexempt action ((~~shall determine the lead agency for that proposal~~)) under WAC 197-11-050, 197-11-253 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the Responsible Official ((department)) is aware that another outside ((department or)) agency is in the process of determining the lead agency.
- ((b))(2) When the County is the lead agency for a proposal, the department receiving the application shall refer the matter to the Responsible Official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- ((e))(3) When the County is not the lead agency for a proposal, all departments of the County shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No County department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the County may conduct supplemental environmental review under WAC 197-11-600.
- ((d))(4) If the County or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of the SEPA Rules and supplemental provisions adopted in this Chapter ((~~and WAC 197-11-253 or WAC 197-11-922 through 197-11-940~~)), it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the County must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE THRU~~))

behalf of the County shall be initiated by the Responsible Official.

((e))(5) The Responsible Official is authorized to make agreements as to lead agency status o((f))l shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that the Responsible Official and any department that will incur responsibilities as the result of such agreement approve the agreement.

((f))(6) ~~((Any department making a lead agency determination for a private project))~~ The Responsible Official shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal. ~~((Ord. 6 1984 part 2 §4,1984))~~

((g))(7) When the County is lead agency for a MTCA remedial action, the Department of Ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the County shall decide jointly with Ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

16.04.065 Reserved ~~((Administrative Procedures for SEPA Applications. The administrative procedures of Title 16B Project Permit Administration, shall apply to applications for SEPA review. Ord. 5 1996))~~

16.04.070 Reserved ~~((Additional Considerations in Time Limits Applicable to the SEPA Process))~~:

~~((1)) Except for a Determination of Significance, or for a project having no other permits requiring a Notice of Application, the Responsible Official may not issue a threshold determination under SEPA, or a decision or recommendation on a project permit, until the expiration of the Notice of Application comment period on the underlying project permit.~~

~~((2)) Threshold determinations shall be issued at least 15 days prior to any open record hearing. Ord. 6 1984 Part 2 §5,1984; Ord. 5 1996))~~

16.04.080 Additional Timing Considerations.

((a))(1) For nonexempt proposals, the DNS or final EIS for the proposal shall accompany the County's staff recommendation to the Planning Commission, Hearing Examiner or similar decision body.

(2) If the County's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the County conduct environmental review prior to submission of the detailed plans and specifications and the Responsible Official may agree to such request; provided, that adequate

Staff Note: (ADDED TEXT IS UNDERLINED)
DELETED TEXT ((~~STRIKE THRU~~))

information must be furnished to the Responsible Official pursuant to the SEPA rules and supplemental provisions of this Chapter to allow a threshold determination to be made.

- (3) The optional DNS process in WAC 197-11-355 may be used to indicate on a notice of application that the lead agency is likely to issue a DNS. If this optional process is used, a separate comment period on the DNS may not be required if the Responsible Official determines that a separate comment period is unnecessary.

16.04.085 Reserved ((SEPA/GMA Integration—Use of Existing Comprehensive Plans and Development Regulations for Environmental Review:

- ~~((1) The Responsible Official may determine that existing comprehensive plans, subarea plan elements of a comprehensive plan, development regulations, or other local, state, or federal rules or laws provide adequate analysis and mitigation of the specific probable adverse environmental impacts of a proposed action as defined by RCW 43.21C (SEPA), and Chapter 16.04 of this code.~~
- ~~((2) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address a specific probable adverse environmental impact if the Responsible Official, through the environmental and project review processes has identified the specific adverse environmental impacts of the proposed project; and:~~
- ~~(A) The impacts have been avoided or otherwise mitigated; or~~
- ~~(B) The Board of County Commissioners has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by RCW 36.70A.~~
- ~~((3) If the Responsible Official determines that existing plans, development regulations, rules or laws adequately address a project's probable specific adverse environmental impacts as provided in Subsections 1 and 2 above, then the Responsible Official shall not impose additional studies or mitigation under RCW 43.21C (SEPA) or this Chapter during project review.))~~
- ~~((4) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the Responsible Official shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the Responsible Official shall base or condition its project approval on compliance with these other existing rules or laws.~~
- ~~((5) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this Chapter. Ord 5-1996))~~

16.04.087 Reserved ((Planned Actions)):

- ~~((1) A planned action, as defined in Subsection (2) of this Section, does not require a threshold determination or the preparation of an Environmental Impact Statement under RCW 43.21C or this Chapter, but is subject to environmental review and mitigation as provided in RCW 43.21C and this Title.~~

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE THRU~~)))

- (2) ~~For the purpose of this Subsection, a planned action means one or more types of project action that:~~
- (a) ~~Are designated planned actions by an ordinance or resolution adopted by Yakima County pursuant to RCW 36.70A.040;~~
 - (b) ~~Have had the significant impacts adequately addressed in an Environmental Impact Statement prepared in conjunction with a comprehensive plan or subarea plan adopted pursuant to RCW 36.70A; or, a fully contained community, a master planned resort, a master planned development, or a phased project;~~
 - (c) ~~Are subsequent or implementing projects for the proposals listed in (2)(a) of this Section;~~
 - (d) ~~Are located within an urban growth area, as defined in RCW 36.70A.030;~~
 - (e) ~~Are not essential public facilities as defined in RCW 36.70A.200; and,~~
 - (f) ~~Are consistent with a comprehensive plan adopted pursuant to RCW 36.70A.~~
- (3) ~~Yakima County shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the County and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this Subsection. Ord. 5-1996))~~

Article II. Categorical Exemptions and Threshold Determinations.

16.04.090 Reserved.((Adoption by Reference.))

This Article contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an Environmental Impact Statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The County adopts the following sections by reference, as supplemented in this part):

- ~~WAC 197-11-300 Purpose of this part.~~
 - ~~197-11-305 Categorical exemptions.~~
 - ~~197-11-310 Threshold determination required.~~
 - ~~197-11-315 Environmental checklist.~~
 - ~~197-11-330 Threshold determination process.~~
 - ~~197-11-335 Additional information.~~
 - ~~197-11-340 Determination of Nonsignificance (DNS).~~
 - ~~197-11-350 Mitigated DNS.~~
 - ~~197-11-355 Optional DNS process.~~
 - ~~197-11-360 Determination of Significance (DS)/initiation of scoping.~~
 - ~~197-11-390 Effect of threshold determination.~~
- ((Ord. 6-1984 Part 3 §1, 1984))

16.04.100 Flexible Thresholds for Categorical Exemptions.

Yakima County establishes the following exempt levels for minor new construction under WAC 197-11-

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE THRU~~))

800(1) (b and c) based on local conditions, except when undertaken wholly or partly on lands covered by water as defined by WAC 197-11-756:

~~((a))~~(1) For the construction or location of any residential ~~((units))~~ structures in WAC 197-11-800(1)(b)(i):

- (a) A maximum of twenty (20) residential dwelling units within Urban Growth Areas:
- (b) A maximum of twenty (20) residential dwelling units outside Urban Growth Areas:
- (c) This residential structures exemption shall apply only to the construction or location of dwelling units and not to minor land use decisions concerning the division of land established by SEPA rule.

~~((a))~~ Within the Yakima Urban Area as defined in YCC Title 15A:

- ~~((i))~~ For projects located within the (R-2) Two-Family Residential, (R-3) Multi-Family Residential District, (B-1) Professional Business District, (B-2) Local Business District, (SCC) Small Convenience Center District, (LCC) Large Convenience Center District, (CBD) Central Business District, and (CBDS) Central Business District Support District; up to twenty dwelling units.
- ~~((ii))~~ For projects located within all other use districts: Up to four dwelling units.

~~((b))~~ Outside the Yakima Urban Area:

- ~~((i))~~ For projects located within the (R-2) Two-Family Residential, (R-3) Multiple-Family Residential, (B-1) Modified or Professional Business, (R) Residential or (RS) Rural Settlement Use Districts; Up to twenty dwelling units.
- ~~((ii))~~ For projects located within all other use districts; Up to four dwelling units.))

(2) For the construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure and to be used only by the property owner or his or her agent in the conduct of farming the property ~~((agricultural structures))~~ in WAC 197-11-800(1)(b)(ii):

- (a) A maximum of 30,000 square feet for projects located within Urban Growth Areas.
- (b) A maximum of 30,000 square feet for projects outside Urban Growth Areas.
- (c) This exemption shall not apply to feed lots as provided in WAC 197-11-800(1)(b)(ii).

~~((1))~~ Within the Yakima Urban Area as defined in YCC Title 15A:

- ~~((1))~~ For projects located within the (R-1) Single-Family Residential District, (R-2) Two-Family Residential District, (R-3) Multi-Family Residential District, (B-1) Professional Business District, (B-2) Local Business District, (HB) Historical Business District, (SCC) Small Convenience Center District, (LCC) Large Convenience Center District, (CBD) Central Business District, and (CBDS) Central Business District Support District: Up to 10,000 square feet.

~~((2))~~ For projects located in the (SR) Suburban Residential District, (M-1) Light Industrial District, and (M-2) Heavy Industrial District: Up to 30,000 square feet.))

~~((2))~~ Outside the Yakima Urban Area

- ~~((i))~~ For projects located within the (R-1) One-Family Residential, (R-3) Multi-Family Residential, or (R) Residential use districts: Up to 10,000 square feet.
- ~~((ii))~~ For projects located in all other use districts: Up to 30,000 square feet.))

- (3) For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii):
- (a) A maximum of 12,000 square feet of gross floor area, and with associated parking facilities designed for a maximum of forty (40) automobiles for projects located in all Zoning Districts within Urban Growth Areas.
- ~~(b) A maximum of 12,000 square feet gross floor area, and with associated parking facilities designed for a maximum of forty (40) automobiles for projects located in all Zoning Districts outside Urban Growth Areas.~~
- ~~(a) Within the Yakima Urban Area as defined in Title 15A:~~
- ~~(i) For projects located within the (SR) Suburban Residential District, (R-1) Single-Family Residential District, (R-2) Two-Family Residential District, (R-3) Multi-Family Residential District, and (HB) Historical Business District: Up to 4,000 square feet with associated parking facilities designed for up to twenty automobiles.~~
- ~~(ii) For projects located within the (B-1) Professional Business District: Up to 8,000 square feet with associated parking facilities for up to forty automobiles.~~
- ~~(iii) For projects located in all other use districts: Up to 12,000 square feet with associated parking facilities for up to forty automobiles.~~
- ~~(b) Outside the Yakima Urban Area:~~
- ~~(i) For projects located within the (R-1) One-Family Residential, (R-2) Two-Family Residential, (R-3) Multiple-Family Residential, or (R) Residential Use Districts: Up to 4,000 square feet with associated parking facilities designed for up to twenty automobiles.~~
- (4) For the construction of parking lots in WAC 197-11-800(1)(b)(iv) designed for a maximum of forty (40) automobiles for projects located in all Zoning Districts both within and outside Urban Growth Areas.
- ~~((a)) With in the Yakima Urban Area as defined in YCC Title 15A:~~
- ~~(i) For projects located within the (SR) Suburban Residential District, (R-1) Single-Family Residential District, (R-2) Two-Family Residential District, and the (HB) Historical Business District, facilities designed for up to twenty automobiles.~~
- ~~(ii) For projects located in all other use districts: Facilities designed for up to forty automobiles.))~~
- (5) For landfills and excavations in WAC 197-11-800(1)(b)(11): ((Up to)) A maximum of 500 cubic yards throughout the total lifetime of the fill or excavation in all Zoning ((use d)) Districts both within and outside ((the Yakima)) Urban Growth Areas. ((Ord. 6-1984 Mod. 1 §1, 1986; Ord. 6-1984 Part 3 §2, 1984))

16.04.105 Categorical Exemptions for Nonproject Proposals

The following non-project actions are categorically exempt from RCW 43.21C:

- (1) Amendments to development regulations that:
- (a) Are required to ensure consistency with:

Staff Note: (ADDED TEXT IS UNDERLINED)
DELETED TEXT ((STRIKE-THRU))

within and outside ~~((the Yakima))~~ Urban Growth Areas. ~~((Ord. 6-1984 Mod. 1 §1, 1986; Ord. 6-1984 Part 3 §2, 1984))~~

16.04.105 Categorical Exemptions for Nonproject Proposals

The following non-project actions are categorically exempt from RCW 43.21C:

- (1) Amendments to development regulations that:
 - (a) Are required to ensure consistency with:
 - (i) RCW 36.70A (The Growth Management Act), where the comprehensive plan was previously subjected to environmental review and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;
 - (ii) 90.58, the Shoreline Management Act where the Shoreline Master Program was previously subjected to environmental review and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;
 - (iii) Minimum standards of technical codes, including:
 - (a) Building codes required by 19.27 RCW;
 - (b) Energy codes required by 19.27A RCW; and
 - (c) Electrical codes required by 19.28 RCW;
 - (b) Upon implementation of a project action, will provide increased environmental protection as limited by statute.

16.04.110 Use of Exemptions.

~~((a))~~(1) Upon receipt of a proposal, the Responsible Official shall determine whether the proposal is categorically exempt. This determination shall be made based on applicable SEPA provisions, including but not limited to the definition of action (WAC 197-11-704), the process for determining categorical exemption (WAC 197-11-305), and any designation of environmentally sensitive or critical areas. ((Each department within the County that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal is exempt.)) The ((department's)) Responsible Official's determination that a proposal is exempt shall be final and not subject to administrative appeal or review. If a proposal is exempt, none of the procedural requirements of this Chapter apply to the proposal. An action that is exempt may not be conditioned or denied under this Chapter. The County shall not require completion of an environmental checklist for an exempt proposal.

~~((b))~~(2) In determining whether or not a proposal is exempt, the ((department)) Responsible Official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and non-exempt actions, the ((department)) Responsible Official shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.

~~((e))~~(3) If a proposal includes both exempt and non exempt actions, the ((County)) Responsible Official

Staff Note: (ADDED TEXT IS UNDERLINED)
DELETED TEXT ((STRIKE THRU))

may authorize exempt actions prior to compliance with the procedural requirements of this Chapter, except that((:))

((4))the ((County)) Responsible Official shall not give authorization under this Subsection for:

((i)) (a) Any nonexempt action;

((ii)) (b) Any action that would have an adverse environmental impact;

((iii)) (c) Any action that would limit the choice of alternative(s).

((4))((d))((A department)) The Responsible Official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved. ~~((and))~~

((5))((e))((A department)) The Responsible Official may withhold approval of an exempt action that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

((Ord. 6-1984 Part 3 §3, 1984; Ord. 5-1996))

16.04.120 Environmental Checklist.

((a))((1))Except as provided in Subsection (5) below, a completed environmental checklist substantially in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempt in this Chapter; except, a checklist is not needed if the County and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The ((County))Responsible Official shall use the environmental checklist to determine whether the County should be the lead agency and, if the County is the lead agency, ~~((for determining the Responsible Official and))~~ for making the threshold determination.

((b))((2))For private proposals, the County will require the applicant to complete the environmental checklist, providing assistance as the County determines necessary. For County proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

((e))((3)) The County may require that it or a consultant of its own choosing in consultation with the applicant, and not the private applicant, will complete all or part of the environmental checklist for a private proposal if the County has technical information on a question or questions that is unavailable to the private applicant, or the applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

((d))((4))For all proposals for which the County is the lead agency, the Responsible Official of the County shall make the threshold determination pursuant to the criteria and procedures of WAC 197-11-310 through 340, subject to the appeal procedures of Section 16.04.240 of this Chapter and YCC Title 16B.06.070. ~~((Ord. 6-1984 Part 3 §4, 1984))~~

((e))((5))For projects submitted as planned actions under WAC 197-11-164, the County shall use its

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((STRIKE-THRU))

~~based on conditions attached to the proposal made by the applicant, or on changes to, or clarification of, the proposal made by the applicant.~~

~~((2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request shall:~~

~~((a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the County is lead agency; and~~

~~((b) Precede the County's actual threshold determination for the proposal.~~

~~((3)) The Responsible Official should respond to the request for early notice within twenty-eight days. The response shall:~~

~~((a) Be written;~~

~~((b) State whether the County currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the County to consider a DS; and~~

~~((c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.~~

~~((4) As much as possible, the County should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.~~

~~((5) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the County shall base its threshold determination on the changed or clarified proposal and should make the determination within twenty-eight days of receiving the changed or clarified proposal).~~

~~((a) If the County indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the County shall issue and circulate a DNS under WAC 197-11-340(2).~~

~~((b) If the County indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the County shall make the threshold determination, issuing a DNS or DS as appropriate.~~

~~((c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, where as proposals to "muffle machinery to X decibel" or "construct 200 foot stormwater retention pond at Y location" are adequate.~~

~~((d)) Mitigation measures which justify issuance of a Mitigated DNS to agency staff reports, studies or other documents.~~

~~((6) A Mitigated DNS is issued under either WAC 197-11-340(2), requiring a fourteen day comment period and public notice or WAC 197-11-355 which may require no additional comment period beyond the comment period on the Notice of Application.~~

Staff Note: (ADDED TEXT IS UNDERLINED)
DELETED TEXT ((STRIKE-THRU))

- ((7)) ~~Mitigation measures incorporated in the Mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the County.~~
- ((8)) ~~If the County's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a Mitigated DNS for the proposal, the County should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).~~
- ((9)) ~~The County's written response under subsection (b) of this Section shall not be construed as a Determination of Significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the County to consider the clarifications or changes in its threshold determination. Ord. 6-1984 Part 3 §5,1984))~~

Article III. Environmental Impact Statement (EIS).

~~16.04.140 Reserved. ((Adoption by Reference. This Article contains the rules for preparing environmental impact statements. The County adopts the following sections by reference, as supplemented by this Part:~~

- ~~WAC 197-11-400 Purpose of EIS:~~
- ~~197-11-402 General requirements:~~
 - ~~197-11-405 EIS types:~~
 - ~~197-11-406 EIS timing:~~
 - ~~197-11-408 Scoping:~~
 - ~~197-11-410 Expanded scoping:~~
 - ~~197-11-420 EIS preparation:~~
 - ~~197-11-425 Style and size:~~
 - ~~197-11-430 Format:~~
 - ~~197-11-435 Cover letter or memo:~~
 - ~~197-11-440 EIS contents:~~
 - ~~197-11-442 Contents of EIS on nonproject proposals:~~
 - ~~197-11-443 EIS contents when prior nonproject EIS:~~
 - ~~197-11-444 Elements of the environment:~~
 - ~~197-11-448 Relationship of EIS to other considerations:~~
 - ~~197-11-450 Cost benefit analysis:~~
 - ~~197-11-455 Issuance of DEIS:~~
 - ~~197-11-460 Issuance of FEIS:~~

~~((Ord. 6-1984 Part 4 §1,1984))~~

Staff Note: (ADDED TEXT IS UNDERLINED)
DELETED TEXT ((STRIKE-THRU))

~~197-11-442—Contents of EIS on nonproject proposals.~~
~~197-11-443—EIS contents when prior nonproject EIS.~~
~~197-11-444—Elements of the environment.~~
~~197-11-448—Relationship of EIS to other considerations.~~
~~197-11-450—Cost-benefit analysis.~~
~~197-11-455—Issuance of DEIS.~~
~~197-11-460—Issuance of FEIS.~~

~~((Ord. 6-1984 Part 4 §1,1984))~~

16.04.150 Preparation of EIS--Additional Considerations.

- ((a))(1) Preparation of draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS (SEIS) is the responsibility of the Yakima County Planning ~~((Department))~~ Division under the direction of the Responsible Official. Before the County issues an EIS, the Responsible Official shall be satisfied that it complies with this Chapter and WAC Chapter 197-11.
- ((b))(2) The Responsible Official shall determine whether the DEIS and FEIS and draft and final SEIS shall be prepared by County staff, the applicant, or by consultant. If the Responsible Official requires an EIS for a proposal and determines that someone other than the County will prepare the EIS, the Responsible Official shall notify the applicant immediately after completion of the threshold determination. The Responsible Official shall also notify the applicant of the County's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.
- ((e))(3) The County may require an applicant to provide information the County does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this Chapter or that is being requested from another agency. (This does not apply to information the County may request under another ordinance or statute.)
- ((d))(4) In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private applicant, the Responsible Official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The Responsible Official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document. ~~((Ord. 6-1984 Part 4 §2,1984))~~

16.04.160 Reserved.~~((Additional Elements to be Covered by an EIS.))~~

- ~~((a))—The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this Chapter. When the decision is made to require an EIS, the Responsible Official will at that time, determine which, if any, of the following additional elements are to be~~

Staff Note: (ADDED TEXT IS UNDERLINED)
DELETED TEXT ((~~STRIKE-THRU~~))

included in the draft and final statement));

~~((1) Economy;))~~

~~((2) Social policy analysis.((;))~~

~~((3) Cost benefit analysis.))~~

((Ord. 6-1984 Part 4 §3, 1984))

Article IV. Commenting.

16.04.170 Reserved. ~~((Adoption by Reference. This Article contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The County adopts the following sections by reference, as supplemented in this Part)):~~

~~—WAC 197-11-500—Purpose of this part.~~

~~197-11-502—Inviting comment.~~

~~197-11-504—Availability and cost of environmental documents.~~

~~197-11-508—SEPA register.~~

~~197-11-510—Public notice.~~

~~197-11-535—Public hearings and meetings.~~

~~197-11-545—Effect of no comment.~~

~~197-11-550—Specificity of comments.~~

~~197-11-560—FEIS response to comments.~~

~~197-11-570—Consulted agency costs to assist lead agency.))~~

((Ord. 6-1984 Part 5 §1, 1984))

16.04.180 Public Notice.

((a))(1) Whenever possible, the County shall integrate the public notices required under SEPA ~~((this Section))~~ with existing notification procedures established in YCC Title 16B.05 and 16B.06 for the County's non-exempt permit(s) or approval(s) required of the proposal (See YCC 16B.05 - Table 5-1).

((b) ~~Whenever the County issues a DNS under WAC 197-11-340(2), or a DS under WAC 197-11-360(3) the County shall give public notice as follows)):~~

~~((1))—If an environmental document is issued concurrently with the Notice of Application, the public notice requirements for the Notice of Application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).))~~

~~((2)) If no public notice is otherwise required for the permit or approval, the County shall give notice of the DNS or DS by:~~

~~((i))—Publishing notice in a newspaper of general circulation in the County, city or general area where the proposal is located; and~~

~~((ii) —Notifying the news media;))~~

Staff Note: (ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE-THRU~~))

- city, or general area where the proposal is located; and
- (3) ~~Notifying the news media.))~~
- ((e)) ~~Public notice for projects that qualify as planned actions shall be tied to the underlying permit as specified in WAC 197-11-172(3). ((Ord. 6-1984 Part 5 §2,1984))~~
- (4) The applicant shall be responsible for the following costs of providing public notice:
- (a) Postage fees;
 - (b) Publication fees;
 - (c) Photocopies and printing costs; and
 - (d) Documented staff time involved in preparing, sending and implementing notice procedures.

16.04.190 Designation of Official to Perform Consulted Agency Responsibilities for the County.

- (1) The Responsible Official shall be responsible for preparation of written comments for the County in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
- (2) The Responsible Official shall be responsible for the County's compliance with WAC 197-11-550 whenever the County is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the County. ((Ord. 6-1984 Part 5 §3,1984))

Article V. Using Existing Environmental Documents.

16.04.200 Reserved. ((~~Adoption by Reference.~~ This Article contains rules for using, supplementing and retaining existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the County's own environmental compliance.

~~WAC~~

- ~~197-11-164 Planned actions definitions and criteria.~~
- ~~197-11-168 Ordinances or resolutions designating planned actions Procedures for adoption.~~
- ~~197-11-172 Planned actions project review.~~
- ~~197-11-610 Use of NEPA documents.~~
- ~~197-11-620 Supplemental Environmental Impact Statement Procedures.~~
- ~~197-11-630 Adoption Procedures.~~
- ~~197-11-635 Incorporation by reference Procedures.~~
- ~~197-11-640 Combining documents.~~

Ord. 6-1984 Part 6 §1,1984.))

Staff Note: (ADDED TEXT IS UNDERLINED)
DELETED TEXT ((~~STRIKE THRU~~))

16.04.210 SEPA Public Information.

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

Yakima County Planning ((~~Department~~)) Division
((~~Room 417~~)) 128 N. 2nd Street Fourth Floor, County Courthouse
Yakima, WA 98901
Telephone: (509) 574-2300

- (2) The County shall retain all documents required by the SEPA rules (WAC Chapter 197-11) and make them available in accordance with RCW Chapter 42.17. ((~~Ord. 6-1984 Part 6 §2,1984~~))

Article VI. SEPA and Agency Decisions

~~16.04.220 Reserved. ((Adoption by Reference. This Article contains rules (and policies for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This Article also contains procedures for appealing SEPA determinations to agencies or the courts. The County adopts the following sections of WAC Chapter 197-11 by reference:~~

~~—WAC 197-11-650—Purpose of this Part.
197-11-655—Implementation.
197-11-660—Substantive authority and mitigation.
197-11-680—Appeals.
Ord. 6-1984 Part 7 §1, 1984))~~

16.04.230 Substantive Authority.

((~~a~~))(1) The policies and goals set forth in this Chapter are supplementary to those in the existing authorization of Yakima County and as provided in RCW43.21C.060.

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

- ((~~4~~))(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this Chapter; and
((~~2~~))(b) Such conditions are in writing; and
((~~3~~))(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
((~~4~~))(d) The County has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
((~~5~~))(e) Such conditions are based on one or more policies in Subsections (4 and 5((~~d~~))) of this Section and cited in the license or other decision document.

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

- ((~~4~~))(a) A finding is made that approving the proposal would result in probable significant adverse environment impacts that are identified in a FEIS or final SEIS prepared

pursuant to this Chapter; and

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

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

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

((+))(a) The County shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

((A))(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

((B))(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

((C))(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

((D))(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

((E))(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

((F))(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of living and a wide sharing of life's amenities; and

((G))(vii) Enhance the quality of renewable resources and approaches the maximum attainable recycling of depletable resources.

((2))(b) The County recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. The County adopts by reference the general policies of the State Environmental Policy Act as set forth in RCW 43.21C.010 and RCW 43.21C.020 in order to achieve the environmental goals of the community.

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

(i) The Yakima County Comprehensive Plan ((2015)), with amendments and Supplements thereto;

((ii) ~~Yakima County Critical Areas Ordinance~~

(1) ~~Critical Area Regulations;~~

(2) ~~Yakima County Shoreline Regulations;~~

(3) ~~FEMA floodprone area regulations.))~~

Staff Note:

(ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE-THRU~~))

- (ii) Yakima County-wide Planning Policy (Reso. 553-2003), with related Interlocal Agreements for Growth Management Act Implementation in Yakima County;
- ~~((iii) Yakima County Shoreline Master Program.))~~
- (iii) Yakima Urban Area Comprehensive Plan, with amendments and supplements thereto:
 - 1. West Valley Neighborhood Plan
 - 2. Terrace Heights Neighborhood Plan
- ~~((iv) Yakima County Rural and Urban Solid Waste Management Plan.))~~
- (iv) Yakima County Regional Shoreline Master Program
 - 1. YCC Title 16D
 - 2. WAC 173 Chapters 18-27 (Shoreline Management)
- ~~((v) Yakima County Six Year Comprehensive Road Program.))~~
- (v) YCC Title 2 Administration and Personnel
 - 1. Chapter 2.17, Planning Commission and Department
 - 2. Chapter 2.23, Hearing Examiner
- ~~((vi) Yakima County One Year Road Construction Program, priority array.))~~
- (vi) YCC Title 5 Business Licenses and Regulations
- ~~((vii) Yakima County wide Planning policies.))~~
- (vii) YCC Title 6 Health, Welfare and Sanitation
- ~~((viii) Yakima County Zoning Ordinance.))~~
- (viii) YCC Title 8 Public peace, Safety and Morals
- ~~((ix) Yakima County Subdivision Ordinance.))~~
- (ix) YCC Title 9 Vehicles and Traffic
- ~~((x) Reserved.))~~
- (x) YCC Title 10 Roads, Highways and Bridges
- ~~((xi) Uniform Building Code.))~~
- (xi) YCC Title 11 Parks
- ~~((xii) Uniform Plumbing Code.))~~
- (xii) YCC Title 12 Water and Sewer
- ~~((xiii) Uniform Mechanical Code.))~~
- (xiii) YCC Title 13 Building and Construction
- ~~((xiv) Uniform Fire Code.))~~
- (xiv) YCC Title 14 Subdivisions
- ~~((xv) Yakima Urban Area Zoning Ordinance.))~~
- (xv) Zoning with amendments and Supplements thereto:
 - 1. YCC Title 15 Yakima County Zoning Ordinance
 - 2. YCC Title 15A Yakima County Urban Growth Area Zoning Ordinance
- ~~((xvi) Yakima Urban Area Comprehensive Plan (1997).))~~
- (xvi) YCC Title 16 Environment
 - 1. Chapter 16.04 State Environmental Policy Act
 - 2. Chapter 16.16 Reclamation Program
- ~~((xvii) Yakima County Rural Water & Sewer General Plan (1987).))~~
- (xvii) Critical Areas and Flood Hazard Regulations
 - 1. YCC Title 16A

2. YCC Title 16C

- (xviii) YCC Title 16B Project Permit Administration
- ((~~xix~~) ~~Yakima County Park and Open Space Plan (1996)~~))
- (xix) YCC Title 17 Urban Area Growth Policy
- (xx) YCC Title 20 Yakima County Fee Schedule
- (xxi) Agreement for Wastewater Treatment and Disposal Service, as amended
- (xxii) Greenway Master Plan
- xxiii) Comprehensive Flood Hazard Master Plans (CFHMP), with amendments and Supplements thereto;
 - 1. Upper Yakima CFHMP
 - 2. Naches River CFHMP
 - 3. Ahtanum - Wide Hollow CFHMP
- (xxiv) Yakima County Solid Waste Master Plan, with amendments and supplements thereto;
- (xxv) Yakima County Capital Facilities Plan, with amendments and supplements thereto;
- (xxvi) Yakima Air Terminal Airport Master Plan, with amendments and supplements thereto.

(5) The County adopts the following policies to support its substantive authority under SEPA:

- (a) A single development or land use though otherwise consistent with zoning and other County policies may create adverse impacts upon facilities and services, natural systems or the surrounding area when aggregated with the impacts of prior or other proposed development. It is the policy of the County to analyze such cumulative environmental impacts and condition or deny proposals to minimize or prevent adverse impacts in accordance with other provisions of this Chapter;
- (b) In assessing the environmental impacts of a proposal and in determining the need for conditioning or denying a proposal in accordance with other provisions of this Chapter, the Responsible Official shall utilize SEPA, all policies, guidelines and regulations adopted pursuant to SEPA, federal, state and regional environmental quality standards, and the legislative enactments of the County, both specific and general, now in effect or enacted in the future;
- (c) The County reserves the right to impose specific conditions upon any action or to deny action in conformance with the policies stated in this Chapter, so as to mitigate or prevent adverse environmental impacts.

((Ord. 6-1984, Mod 1 §2,1986 Ord. 6-1984 Part 7 §2,1984).))

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

((Ord. 6-1984 Part 7 §3,1984; Ord. 5-1996).))

16.04.250 Notice/Statute of Limitations.

((a))(1) The County, applicant for, or proponent, if an action may publish a Notice of Action pursuant to RCW 43.21C.080 for any action.

((b))(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the County Auditor, applicant or proponent pursuant to RCW 43.21C.080. ((Ord. 6-1984 Part 7 §4, 1984.))

((Article VII. Categorical Exemptions.))

16.04.260 Reserved. ((Adoption by Reference. The County adopts by reference the following rules for categorical exemptions, as supplemented in this Chapter, including WAC 173-806-070 (Flexible thresholds) and WAC 173-806-080 (Use of exemptions):

~~WAC 197-11-800 Categorical Exemptions:~~
 ~~880 Emergencies.~~
 ~~890 Petitioning DOE to change exemptions.~~
~~Ord. 6-1984 Part 9 §1, 1984))~~

Article VII((f)). Agency Compliance

16.04.270 Reserved. ((Purpose of this Part and Adoption by Reference. This Article contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The County adopts the following sections by reference:

~~WAC 197-11-900 Purpose of this Part:~~
 ~~197-11-902 Agency SEPA policies.~~
 ~~197-11-916 Application to ongoing actions.~~
 ~~197-11-920 Agencies with environmental expertise.~~
 ~~197-11-922 Lead agency rules.~~
 ~~197-11-924 Determining the lead agency.~~
 ~~197-11-926 Lead agency for governmental proposals.~~
 ~~197-11-928 Lead agency for public and private proposals.~~
 ~~197-11-930 Lead agency for private projects with one agency with jurisdiction.~~
 ~~197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a County/city.~~
 ~~197-11-934 Lead agency for private projects requiring licenses from a local agency, not a County, and one or more state agencies.~~
 ~~197-11-936 Lead agency for private projects requiring licenses from more than one state agency.~~

Staff Note:

(ADDED TEXT IS UNDERLINED
DELETED TEXT ((~~STRIKE THRU~~))

~~197-11-938 — Lead agencies for specific proposals.~~
~~197-11-940 — Transfer of lead agency status to a state agency.~~
~~197-11-942 — Agreements on lead agency status.~~
~~197-11-944 — Agreements on division of lead agency duties.~~
~~197-11-946 — DOE resolution of lead agency disputes.~~
~~197-11-948 — Assumption of lead agency status.~~

((Ord. 6-1984 Part 10 §1,1984-))

16.04.280 Fees. The County shall require fees for activities in accordance with this Chapter as set forth in YCC Title 20, as may be amended or adjusted hereafter.

- (1) Threshold Determination. For every environmental checklist the County will review when it is lead agency, the County shall collect a fee established in YCC Title 20 from the proponent of the proposal prior to undertaking the threshold determination. The County may require a contractual agreement to pay fees for the review of major applications, Mitigated DNS or EIS as specified in Title 20. Failure to pay fees or deposits will result in termination or suspension of further project review.
- (2) Environmental Impact Statement.
 - (a) When the County is the lead agency for a proposal requiring an EIS and the Responsible Official determines that the EIS shall be prepared by employees of the County, the County may charge and collect a reasonable fee from any applicant to cover costs incurred by the County in processing the EIS.
 - (b) The Responsible Official may determine that the County will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the County and may bill such costs and expenses directly to the applicant. The County may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the County and applicant.
 - (c) If a proposal is modified so that an EIS is no longer required, the Responsible Official shall refund any fees collected under subdivision (1) or (2) of this Subsection which remain after incurred costs are paid.
- (3) The applicant shall be responsible for the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal, as provided in Section 16.04.140(6).

16.04.290 Severability. If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected. ((Ord. 6-1984 Part 10 §5,1984-))

Staff Note: (ADDED TEXT IS UNDERLINED
 DELETED TEXT ((~~STRIKE-THRU~~))

Article ((IX))VIII. Forms

16.04.300 Adoption by Reference. The County adopts the following forms and sections by reference:

WAC 197-11-960	Environmental Checklist.
197-11-965	Adoption notice.
197-11-970	Determination of Nonsignificance (DNS).
197-11-980	Determination of Significance and scoping notice (DS).
197-11-985	Notice of Assumption of lead agency status.
197-11-990	Notice of Action. ((Ord. 6-1984 Part 11 §1,1984))

EXHIBIT B
To
Ordinance 4-2012 Amendments to YCC Chapter 16.04 SEPA

This Exhibit documents the discussion and direction by the Board of Commissioners following its May 29, 2012 public hearing on YCC Chapter 16.04. Amendments to Exhibit A, as confirmed by the Board, are shown with red underlined new text, deletions with blue strike through.

YCC 16.04.230 Substantive Authority. Exhibit A repeats RCW 43.21C.020 in Subsection (4).

Direction: Amend the Subsection to read as follows:

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

~~((1 The County shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:~~

~~A Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;~~

~~B Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;~~

~~C Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;~~

~~D Preserve important historic, cultural, and natural aspects of our national heritage;~~

~~E Maintain, wherever possible, an environment which supports diversity and variety of individual choice;~~

~~F Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of living and a wide sharing of life's amenities; and~~

~~G Enhance the quality of renewable resources and approaches the maximum attainable recycling of depletable resources.~~

~~2 The County recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.))~~

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

~~((3))~~(b) The County adopts by reference the goals, policies and objectives in the following County plans, codes, ordinances, and resolutions [...]

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)

Y:\ORDINANCES\Code simplification project\SEPA\adoption ordinance\Exhibit B to Ord 4-2012 deliberation directions.doc