

## Chapter 2.23

### HEARING EXAMINER

Sections:

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- 2.23.020 Appointment and Terms.
- 2.23.030 Qualifications.
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#### 2.23.010 Office Established.

There is established an office of hearing examiner. The office of the examiner shall be under the administrative supervision of the examiner and shall be separate from and not an administrative part of the planning ~~department~~division. Unless the context requires otherwise, the term examiner as used in this chapter shall include deputy examiners and examiners pro-tem.

(Ord. 8-1985 §1(part), 1986).

#### 2.23.020 Appointment and Terms.

The board of county commissioners shall appoint the examiner and any deputy examiners after consideration of the recommendation of the joint hearings examiner committee created by and pursuant to the Intergovernmental Agreement for the Mutual Use of Hearing Examiner Services entered into by and between the city of Yakima and Yakima County, Washington, for terms which shall be reviewed one year following the date of original appointment and thereafter be reviewed four years following the date of each reappointment. The board may also appoint examiners pro-tem to serve in the event of absence or inability to act of the examiner and deputy examiners.

(Ord. 8-1985 §1 (part), 1986).

#### 2.23.030 Qualifications.

Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. Examiners shall hold no other elective or appointive office or position with the city of Yakima or the county of Yakima.

(Ord. 8-1985 §1(part), 1986).

#### 2.23.040 Removal.

An examiner may be removed from office for cause by majority vote of the board after consideration of a recommendation as to removal or nonremoval from the joint hearings examiner committee.

**Commented [PH1]:** County and City are considering whether to update or repeal the 1986 City-County Intergovernmental Agreement for the Mutual Use of Hearing Examiner Services.

**Commented [PH2]:** This is appropriate to retain if the 1986 City-County Intergovernmental Agreement for Mutual Use of Hearing Examiner Services is retained.

**Commented [PH3]:** This is appropriate to retain if the 1986 City-County Intergovernmental Agreement for Mutual Use of Hearing Examiner Services is retained.

(Ord. 8-1985 §1(part), 1986).

**2.23.050 Standards of Conduct.**

(1) No person, including city or county officials, elective or appointive, shall attempt to influence an examiner in any matter pending before ~~him~~the examiner, except at a public hearing duly called for such purpose, or to interfere with an examiner in the performance of ~~his~~ duties in any other way; provided, that an official or employee of the city of Yakima or Yakima County may, in the performance of ~~his~~ official duties, provide information to the examiner when the action is disclosed at the hearing or meeting, ~~nor shall this~~This section ~~shall not~~ prohibit rendering of legal services to the examiner or to the board.

(2) No examiner shall conduct or participate in any hearing or decision in which the examiner shall have a direct or indirect financial or personal interest or in which such conduct or participation shall violate any rule of law applicable thereto.

(Ord. 8-1985 §1(part), 1986).

**2.23.060 Rules.**

The examiner shall implement procedural rules for the conduct of hearings and other procedural matters related to the duties of ~~his~~the office in accordance with RCW 36.70.970.

(Ord. 8-1985 §1(part), 1986).

**2.23.070 Time Computation.**

In computing any period of time prescribed by this chapter, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a county legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or county legal holiday. When the period of time prescribed or allowed is less than seven days, the intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

**Commented [PH4]:** Making consistent with 16B.02.055 (definition of Day) and with local court rules.

(Ord. 8-1985 §1(part), 1986).

**2.23.080 Duties and Powers.**

The examiner shall hear, make a record of, and decide matters provided in this chapter or by other ordinances including but not limited to the following land use and adult entertainment facility licensing matters:

- (1) Matters prescribed by Titles 16, 16B, 16C, 16D, 19, and 21 of this code, ~~and~~Decisions of the examiner on such matters shall have the legal effect as set forth in the provisions of Title 19 of this code.
- (2) ~~Matters prescribed by Chapter 5.06 of this code. Review of preliminary plats and modifications thereto within the county using the procedures and provisions for review by the planning commission as set forth in RCW Chapter 58.17. The decisions of the hearing examiner on such matters shall constitute recommendations to the board of county commissioners.~~
- (3) ~~Plat vacations or amendments pursuant to RCW Chapter 58.17. Decisions of the examiner on such matter shall constitute final decisions unless appealed to the board under the provisions of this chapter.~~
- (4) ~~The examiner shall conduct hearings pursuant to RCW Chapter 43.21C State Environmental Policy Act (SEPA) in Title 16 of this code.~~
- (5) ~~The matters prescribed by the Yakima County Critical Areas Ordinance—Title 16C Yakima County Code, except Chapter 16C.05.~~
- (6) ~~The matters prescribed by the Project Permit Administration Ordinance—Title 16B Yakima County Code.~~
- (7) ~~The matters prescribed by the Yakima County Regional Shoreline Master Program—Title 16D Yakima County Code, except Chapter 16D.05.~~
- (8) ~~Adult entertainment licensing appeals as set forth in the provisions of Chapter 5.06 of this code.~~

Decisions of the examiner on such matters ~~shall have the legal effect as set forth in the provisions of Title 19 of this code are final unless this code specifies that they are recommendations to the board~~. The provisions of this section designating and assigning the hearing examiner the duties and functions listed in this chapter shall supersede any and all conflicting provisions of this code.

(Ord. 10-2019 (Exh. 1) (part), 2019: Res. 80-2016 (Exh. A) (part), 2016; Ord. 8A-2010 § 1, 2011; Ord. 8-96 § 1, 1996; Ord. 8-1985 §1(part), 1986).

**2.23.090 Applications.**

Applications for ~~permits or approvals recommendations and decisions~~ ~~subject to review~~ by the examiner shall be made to the county planning ~~department division~~ (hereinafter referred to as the “~~departmentdivision~~”). The ~~departmentdivision~~ shall accept such applications only if applicable filing requirements are met. The ~~departmentdivision~~, in coordination with the hearing examiner, shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the statute or ordinance governing the application.

(Ord. 8-1985 §1(part), 1986).

**2.23.100 Master Applications. Reserved.**

~~Any persons proposing a development or project which requires more than one of the permits or approvals listed in Section 2.23.080 of this chapter may submit a master application to the department on forms furnished by the department containing all necessary information. The master application shall thereafter be processed by the examiner subject to the longest time limitations applicable to any of the required permits for approval. If any of the required approvals constitute a recommendation to the legislative body, the decision of the examiner as to all such permits or approvals shall constitute a recommendation to the legislative body, otherwise the decision of the examiner shall be final subject to an appeal to the legislative body pursuant to this chapter.~~

**Commented [PH5]:** This is covered by Title 19's optional consolidated process.

(Ord. 8-1985 §1(part), 1986).

**2.23.110 Report of Department. Reserved.**

~~Where no specific provision for a report of the department is contained in the statute or ordinance governing the application, the department may coordinate and assemble the reviews of other county/city departments, other state or local governmental agencies and franchised public utilities having an interest in the subject application and prepare a report summarizing the factors involved and the department's findings and recommendations. At least seven calendar days prior to the scheduled hearing the report shall be filed with the examiner and copies thereof shall be mailed to the applicant and made available for public inspection. Copies thereof shall be provided to interested parties upon request.~~

**Commented [PH6]:** This language is incorporated into 16B.08.020

(Ord. 8-1985 §1(part), 1986).

**2.23.120 Examiner's Decision.**

Within ten working days of the conclusion of a hearing, unless a longer period is agreed to in writing by the applicant, the examiner shall render a written decision which shall include findings and conclusions based on the record. ~~Except as provided in Sections 2.23.080 and 2.23.100 of this chapter, the decision of the examiner shall be final and conclusive on the fifteenth day after the date of the decision unless a notice of appeal to the board of county commissioners is filed pursuant to Section 2.23.140 of this chapter.~~ The examiner's decision together with ~~his~~ findings, conclusions, and record of proceedings shall be filed with the ~~departmentdivision~~. If the effect of the decision is a recommendation to the ~~legislative bodyboard~~, the ~~Administrative Official~~ original thereof shall be transmitted ~~it~~ to the ~~legislative bodyboard~~.

**Commented [PH7]:** This is covered by 16B; and the board no longer hears appeals.

(Ord. 8-1985 §1(part), 1986).

**2.23.130 Notice of Examiner's Decision.**Reserved.

Unless different procedures are prescribed by the ordinance or statute governing the application, the department shall mail copies of the examiner's decision by certified mail to the applicant and by regular mail to other parties of record not later than three working days following the filing of a written decision by the examiner.

For purposes of this chapter "parties of record" means the applicant and all other persons who have either submitted written comment on any action or proposed action, or who have appeared at a public hearing or public meeting and specifically requested notice of the decision by signing a register provided for such purpose at the hearing or meeting.

(Ord. 8-1985 §1(part), 1986).

**Commented [PH8]:** This is covered by 16B.08.050(4)

**Commented [PH9]:** Moving the 3-day requirement to 16B.08.050(4), but omitting "by certified mail".

**2.23.140 Appeal from Examiner's Decision.**Reserved.

Except as to those decisions which constitute recommendations to the board as provided in Sections 2.23.080 and 2.23.100 of this chapter, and except for decisions on adult entertainment licensing appeals as set forth in the provisions of Chapter 5.06 of this code, and except for appeals processed under Title 19 of this code, a final decision by the examiner may be appealed to the board by any aggrieved person, or by any officer, department, board or bureau of the county affected by the examiner's decision, in the following manner:

(1) The appealing party must file a complete written notice of appeal with the department upon forms prescribed by the department and accompanied by the appeal fee within fourteen days from the date of the examiner's final decision.

(2) Unless the statute or ordinance governing the application specifically states a different fee for an appeal to the board, the appeal fee shall be as established in YCC Title 20; provided, that such appeal fee shall not be charged to other than the first appellant.

(3) The notice of appeal shall specify the claimed error(s) or issue(s) which are being appealed and shall specifically state all the grounds for such appeal. Issues or grounds of appeal which are not so identified shall not be considered by the board.

(4) The department shall notify the parties of record that an appeal has been filed and that copies of the notice of appeal and any written argument or memorandum of authorities accompanying the notice of appeal may be obtained from the department. The notice to parties shall also state that parties of record wishing to respond to the appeal may submit written argument or memorandum to the board within fourteen days from the date that the notice to the parties is mailed and shall further specify that such written argument or memorandum shall not include the presentation of new evidence and shall be based only upon the facts presented to the examiner. A copy of the notice shall be sent to the appellant.

(5) The appellant or any party of record may submit a written argument or memorandum of authority within fourteen days of the date of mailing of the notice of appeal to parties of record. Such written argument or memorandum of authorities shall be filed with the department. No written argument or authorities may be thereafter submitted. Memoranda, written argument or comments shall not include the presentation of any new evidence and shall be based only on the facts presented to the examiner.

(6) When a timely appeal has been filed and the deadline for receipt of written memoranda has passed, the department shall, within five days, deliver to the board a copy of the examiner's decision, the evidence presented to the examiner, an audio recording of the hearing before the examiner and any written argument or memorandum of authority which has been received.

(Res. 80-2016 (Exh. A) (part), 2016; Ord. 8A-2010 § 2, 2011: Ord. 8-1985 §1(part), 1986).

**2.23.150 Effect of Appeal.**Reserved.

The timely filing of an appeal under this chapter shall stay the effective date of the examiner's decision until the appeal is adjudicated by the board or until the appeal is withdrawn.

**Commented [PH12]:** There are no longer administrative appeals of Hearing Examiner decisions.

(Ord. 8-1985 §1(part), 1986).

**2.23.160 Board Action on Appeals. Reserved.**

(1) General. When the record and the examiner's decision has been transmitted to the board, the clerk of the board shall schedule a date for a public meeting by the board at which time the board shall consider the appeal. The date of the public meeting should not be later than twenty days following the date the board receives the information from the department.

(2) Public Notice of Meeting on Appeals. The clerk of the board shall mail written notice to all parties of record and the examiner to apprise them of the meeting date before the board.

(3) Site Views. The board may view the site.

(4) Scope of Review. Board review of the facts shall be limited to evidence presented to the examiner. The board may request additional information or memoranda in order to reach a decision, provided that all parties of record are given an opportunity to respond to the material provided.

(5) Action on Appeal. At the public meeting, the board may adopt, amend and adopt, reject, reverse, amend and reverse the findings, conclusions and decision of the examiner or remand the matter for further consideration or for purpose of taking and considering new factual evidence by the examiner. If the board renders a decision different from the decision of the examiner, the board shall adopt amended findings and conclusions accordingly.

(Ord. 8-1985 §1(part), 1986).

**Commented [PH13]:** The BOCC no longer hears appeals, as provided by 16B.

**2.23.170 Appeal of Decisions Made by Board. Reserved.**

The action of the board on appeal of the decision of the examiner shall be final and conclusive unless, within thirty days from the date of final action, an aggrieved party obtains an appropriate writ of judicial review for the purpose of review of the action taken or files an appropriate appeal as allowed by law. The appellant shall provide or pay for, in advance, the cost of preparing any verbatim transcript of proceedings required for judicial appeal. With the consent of the superior court, the parties may agree to provide a verbatim audio record of proceedings for purposes of review by the superior court.

**Commented [PH14]:** The BOCC no longer hears appeals, as provided by 16B.

(Ord. 8-1985 §1(part), 1986).

**2.23.180 Annual Report. Reserved.**

The examiner shall report in writing to and meet with the planning commission and board of county commissioners at least annually for the purpose of reviewing the administration of the county's land use policies and regulating ordinances. The report shall include a summary of the examiner's decisions since the prior report.

(Ord. 11-2009 § 2, 2010: Ord. 8-1985 §1(part), 1986).

**Commented [PH15]:** This has not been done in a long time, if it ever was done.

**TITLE 16B**  
**PROJECT PERMIT ADMINISTRATION**

**Chapters:**

- 16B.01** Purpose and Authority
- 16B.02** Definitions
- 16B.03** Classification by Project Permit Type
- 16B.04** Application Process
- 16B.05** Public Notice
- 16B.06** Consistency Analysis and SEPA Integration
- 16B.07** Final Decisions
- 16B.08** Open Record Public Hearings
- 16B.09** Administrative Appeals, Closed Record Hearings, and Judicial Appeals
- 16B.10** Comprehensive Plan and Regulatory Amendment Procedures
- 16B.11** Violations and Enforcement

**Chapter 16B.02**  
**DEFINITIONS**

Sections:

16B.02.010 Definitions.  
16B.02.020 Administrative Official.  
16B.02.030 Agency with Jurisdiction.  
16B.02.040 Board of County Commissioners.  
16B.02.045 Buildable Land.  
16B.02.050 Closed Record Hearing.  
16B.02.055 Day.  
16B.02.060 Decision Maker.  
16B.02.070 Hearing Examiner.  
16B.02.080 Open Record Hearing.  
16B.02.082 Optional Consolidated Permit Review.  
16B.02.083 Parties of Record.  
16B.02.085 Policy Plan Map.  
16B.02.090 Project Permit Application.  
16B.02.093 Public Meeting.  
16B.02.095 Reviewing Official.  
16B.02.100 SEPA.

**16B.02.070 Hearing Examiner.**

“Hearing Examiner” or “Examiner” means that person appointed by the Board of Commissioners in accordance with YCC 2.23. The Hearing Examiner shall conduct open record hearings on project permit applications.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 6-2014 § 2 (Exh. A)(part), 2016: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

**16B.02.083 Parties of Record.**

“Parties of Record” means:

(a) Any person who testified appeared at the open or closed record public hearing or public meeting on the application and signed an official register; and

(b) Any person who submitted written comments in response to the Notice of Application or environmental review (excluding persons who have only signed petitions or mechanically produced form letters); and

(c) Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters); and

(d) Affected agencies and tribes; and

(e) The applicant and owner of the property.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017).

**Commented [PH1]:** Incorporating language from YCC 2.23.130 and the HE’s Rules of Procedure section 1.1.5: The HE’s definition includes public meetings, which is defined in 16B.02.093. We are adding closed record here to allow for a new person to appear at the closed record hearing and provide only argument based on the existing evidence.

**Commented [PH2]:** This language comes from (c).

**Chapter 16B.05**  
**PUBLIC NOTICE**

Sections:

16B.05.010 Notice of Application.  
16B.05.020 Contents of Notice of Application and Other Notices.  
16B.05.030 Method of Public Notice by Application and Action Type.  
16B.05.040 Public Comment on the Notice of Application.  
16B.05.050 Public Notice of Closed Record Hearings.

**16B.05.030 Method of Public Notice by Application and Action Type.**

(1) Public notice of project permit applications and amendments to comprehensive plans and development regulations described in YCC Chapter 16B.10, shall be provided in the manner specified in Table 5-1.

(a) Any project permit or other action that is not categorically exempt from SEPA requires public notice. If no notice of application is required, then a threshold determination may serve as the required public notice. The threshold determination and checklist shall be circulated to agencies with jurisdiction or expertise as defined in WAC 197-11-714 and listed in YCC 16B.05.030 (3)(a)(iii) through (vi). If public notice is not required as part of any underlying permit or action related to the SEPA review, no other method of public notice, such as publishing or notice to adjacent property owners, shall be required.

(b) Notice of the availability of a draft or supplemental environmental impact statement under YCC 16.04.180 shall be provided using the methods listed in WAC 197-11-510(1)(a) through (c) and may be combined with the Notice of Application or hearing on the underlying permit or legislative action.

(2) Table 5-1 may require more than one type of notice for some applications. In the case of conflicts between Table 5-1 below and other notice provisions contained in other Titles of Yakima County Code or provisions in State law, the most lengthy and greater notice requirements shall apply.

**Table 5-1**

**Notice of Environmental Review and Notice of Application or Proposal – Method of Public Notice**

Process Type	Mailing <sup>(2)</sup>	Posting of Property	Published in Newspaper	Posting the Hearing Examiner's Agenda <sup>(6)</sup>
Type 1	No <sup>(1), (3)</sup>	No	No	<u>Not Applicable</u>
Type 2	Yes <sup>(1)</sup>	No	No	<u>Yes (when applicable)</u>
Type 3	Yes	Yes	Yes	<u>Yes</u>
Type 4	Yes	Yes	Yes	<u>Yes</u>
Development Agreement	No	No	Yes	<u>Yes</u>
Site-specific policy plan map amendment	Yes <sup>(4)</sup>	Yes	Yes	<u>Not Applicable</u>
Legislative action	Yes <sup>(5)</sup>	No	Yes	<u>Not Applicable</u>

**Commented [PH3]:** Column and footnote 6 added per HE's Rules section 2.4

Notes:

(1)

In case of an open record appeal hearing of a Type 1 or Type 2 project permit, notice will be provided to property owners described in Subsection (3)(a) of this Section.

- (2) Project permits and other actions that are subject to environmental review (SEPA) shall have the threshold determination and checklist associated with the project permit or action circulated to the applicant and to agencies with jurisdiction or expertise as defined in WAC 197-11-714 and listed in Subsections (3)(a)(iii) through (vi) of this Section.
- (3) If the underlying permit is a Type 1, road approach, grading or building permit for which no other project permit application is required, APO notice of a SEPA determination shall not be required.
- (4) Notice of site-specific policy plan map amendment proposals shall be provided according to YCC 16B.10.080 and to adjacent property owners described in Subsection (3)(a)(i) of this Section.
- (5) Notice of policy plan map amendments and text amendments described in YCC Chapter 16B.10 shall be provided according to YCC 16B.10.080.
- (6) [The agenda for each Hearing Examiner hearing shall be posted in the division's offices and on the county's website for public review at least seven \(7\) days before the hearing.](#)

(3) Notice of Application or Notice of Site-Specific Policy Plan Map Amendment – Mailing.

(a) When required, written notice of the application or amendment will be sent as specified in Subsection (c) below by the Planning Division to the following parties:

- (i) Adjacent property owners (APO) of real property, as listed on the most current Yakima County Assessor records, located as follows:
  - (A) For all project permits or site-specific amendments, notice of the proposal shall be sent to all owners of property located within 300 feet of any portion of the boundary of the proposed project permit application or amendment site. If the owner of the proposed project permit or amendment site also owns another parcel or parcels of real property adjacent to the proposed project permit or amendment site, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the proposed project permit or amendment site;
  - (B) For linear transmission facility projects, notice of the proposal shall be sent to all owners of property located within 660 feet from the centerline of the linear transmission facility;
  - (C) Where establishing a Mining Zoning District, notice of the proposal shall be sent to all owners of property located within one-half mile of the boundaries of the subject property, or of the boundaries of any contiguous properties under the same mining operation, and to owners adjacent to any private access roads that would serve as haul roads;
  - (D) Where establishing or modifying a mineral batching, processing or mining/site operation, notice of the proposal shall be sent to all owners of property located within one-half mile of the boundaries of the subject property, or of the boundaries of any contiguous properties under the same mining operation, and to owners adjacent to any private roads that would serve as haul roads.
- (ii) The contact person for the permit application;
- (iii) Interested or affected public agencies with jurisdiction;
- (iv) Affected Indian tribes;
- (v) Cities or towns within one mile of the proposal; and

**Commented [PH4]:** The language for posting in the office comes from the HE's Rules of Procedure, Section 2.4. We propose adding posting to the county's website and omitting "and may be distributed to interested news media."

(vi) The installation commander of the Yakima Training Center in the event of any project permit or action located within 500 feet of the perimeter of the Yakima Training Center.

(b) If the open record hearing date is not specified in the Notice of Application or notice of proposed policy plan map amendment, a second notification listing the open record hearing date must be sent through first-class mail, electronic mail, or postcard at least fifteen days prior to the first public hearing on Type 3 and Type 4 project applications, or at least ten days prior to a public hearing before the Planning Commission or BOCC on site-specific plan amendment proposals. This notice must be sent to those parties who were originally sent a Notice of Application or amendment.

(c) The written Notice of Application or notice or proposed policy plan map amendment shall be sent through first-class mail, which may be by postcard. The County, may, however, provide notification by electronic mail when requested by the recipient.

**Commented [PH5]:** These additions clarify missing procedures.

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(4) Posting of Project or Posting of Site-Specific Policy Plan Map Amendment Site. Posting of the project site may be required prior to an open record public hearing on Type 3 and 4 project applications and is required prior to a public hearing before the Planning Commission or BOCC on site-specific plan amendment proposals described in YCC Chapter 16B.10. Posting is not required for Urban Growth Area amendments. Posting, when required, shall consist of signs provided by the Planning Division which shall be placed by the applicant at least fifteen days prior to the date of the public hearing on project applications, or at least ten days prior to a public hearing before the Planning Commission or BOCC on site-specific plan amendment proposals. Signs shall be posted on the subject property so as to be clearly seen from each right-of-way providing primary vehicular access to the subject property. The posted notice shall identify the project action or proposed amendment and contain other such information required by law and additional information required by the Reviewing Official. The applicant shall be responsible for removal of the posted notice upon the conclusion of the hearing.

(5) Publication Notice.

(a) When required, public notice of project permit applications and site-specific policy plan map amendments shall be published in a newspaper of general circulation in the general area of the proposal. Notice of a project permit application may be published in a local land use newsletter published by Yakima County in lieu of publication in a newspaper of general circulation. The notice shall be published once, at least fifteen days prior to the date of the first public hearing on the underlying project permit or at least ten days prior to a public hearing before the Planning Commission or BOCC for legislative actions described in YCC Chapter 16B.10. This notice shall include the project location or other description of the site in other than a legal description, a brief description of the project, type of permit(s) required, comment period dates, hearing dates if applicable, and a location where the complete application may be reviewed.

(b) Continuation of Hearings. If the Hearing Examiner, Planning Commission, or BOCC determines at a hearing that there is a good cause to continue such proceeding and publicly specifies the date, time, and place and immediately posts a note so saying near the hearing room's door where it is visible to the public, no further notice is required. When determination for a further hearing is made following the closing of a hearing on a given matter, notice of the date, time, place, and nature of the subsequent hearing shall be published in the same manner as required for the initial hearing; and concurrent written notice to all parties of record shall also be provided. Whenever any hearing is determined to be continued, a notice of continuance shall be conspicuously posted immediately after the determination on or near the door of the place where the hearing was being held. When a hearing is continued, the resulting continued hearing is a regular hearing for all purposes unless specifically limited by the order granting continuance.

**Commented [PH6]:** This addition is based on the HE Rules of Procedure 2.6(B), with modifications.

(6) Closed Record Public Hearing Notice. Public notice of closed record public hearings will be provided in accordance with Section 16B.05.050 of this Chapter.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exhs. A, B) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996.)

**Chapter 16B.07**  
**FINAL DECISIONS**

Sections:

- 16B.07.010 Notice of Decision – Public Notice.
- 16B.07.020 Reserved.
- 16B.07.030 Notice of Decision – Time Frames.
- 16B.07.040 Exceptions from 120-Day Time Period.
- 16B.07.050 Compliance, Extension, Expiration and Reinstatement.

**16B.07.010 Notice of Decision – Public Notice.**

The Notice of Decision shall be a single report which complies with RCW 36.70B.130 and states all the decisions made on all project permits that are a part of the application. The [County Administrative Official](#) shall provide notice of ~~its~~ decisions [\(made by the Administrative Official, the Hearing Examiner, and the board\)](#) by first-class mail to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application in accordance with RCW 36.70B.130. The [County](#)  
[Administrative Official](#) may, however, provide notification by electronic mail when requested by the recipient. The Notice of Decision shall state any mitigation required under applicable development regulations or under SEPA. If a SEPA threshold determination has not been issued previously by the local government, the Notice of Decision shall include this determination. Notice of administrative appeal procedures, if applicable, shall also be included in the Notice of Decision.

**Commented [PH7]:** Clarifications.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exhs. A, B) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

## Chapter 16B.08

### OPEN RECORD PUBLIC HEARINGS

Sections:

- 16B.08.010 Generally.
- 16B.08.020 Responsibility of Administrative Official for Hearing.
- 16B.08.030 Order of Proceedings.
- 16B.08.040 Burden of Proof – Open Record Hearings.
- 16B.08.050 Hearing Examiner Decisions and Recommendations.
- 16B.08.060 Site View of Subject Property.
- 16B.08.070 Joint Public Hearings.

#### **16B.08.010 Generally.**

Open record public hearings shall be conducted in accordance with this Chapter. Such hearings may be conducted in-person, virtually, or both simultaneously in accordance with state law.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

#### **16B.08.020 Responsibility of Administrative Official for Hearing.**

Upon the filing of a project permit application requiring a public hearing, the Administrative Official shall set the time and place for the public hearing and shall provide notice of the hearing as set forth in Chapter 16B.05. The Administrative Official shall also prepare a staff report on the application and present this staff report at the public hearing. This staff report will incorporate recommendations on the project permit application, any mitigation measures recommended under the County's development regulations or under the authority of SEPA, and the County's final SEPA determination on the project permit application, if applicable. At least seven calendar days prior to the scheduled hearing the Administrative Official shall notify the Hearing Examiner and applicant of the availability of the staff report and hearing exhibits for pick up at the division's office and email same to the Hearing Examiner and applicant. Copies shall be made available for public inspection and provided to interested parties upon request.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

**Commented [PH8]:** Manager's suggestion to ensure timely delivery of hearing packets. Incorporating part of 2.23.110 with modifications.

#### **16B.08.030 Order of Proceedings.**

Public hearings shall be conducted in accordance with the Hearing Examiner's rules of procedure and shall serve to create or supplement an evidentiary record upon which the Hearing Examiner will base his or her decision. Persons may appear at the hearing either personally or by agent or attorney. The Hearing Examiner shall open the public hearing and, in general, observe the following sequence of events:

- (1) Staff presentation, including submittal of any administrative reports. The Hearing Examiner may ask questions of the staff.
- (2) Applicant presentation, including submittal of any materials. The Hearing Examiner may ask questions of the applicant. The applicant shall appear personally or by agent or attorney.
- (3) Testimony or comments by the public relative to the matter being heard. Questions directed to the staff or the applicant shall be posed by the Hearing Examiner at his/her discretion.
- (4) Rebuttal, response or clarifying statements by the staff and the applicant. The Hearing Examiner may further question a person submitting information or the staff if opportunity for rebuttal is provided.
- (5) The public hearing portion of the hearing shall be closed and the Hearing Examiner may deliberate on the matter.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

**16B.08.050 Hearing Examiner Decisions and Recommendations.**

(1) Following the open record public hearing, the Hearing Examiner shall approve, conditionally approve, or deny the application, or recommend approval or denial of the application. The Hearing Examiner shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of the Yakima County Code. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall deny the application.

(2) Each recommendation and final decision of the Hearing Examiner body shall be in writing and shall include findings and conclusions, based on the record, to support the recommendation and decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the County's comprehensive plan(s) and development regulations.

**Commented [PH9]:** Looks like a typo, so delete.

(3) Each recommendation and final decision of the Hearing Examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing body, shall be rendered within fourteen [ten (10) working] days following the conclusion of all testimony and the hearing on the project permit application.

**Commented [PH10]:** Making consistent with YCC 2.23.120.

(4) The Administrative Official will provide notice of the Hearing Examiner's decisions and recommendations consistent with YCC 16B.07.010 within three days of issuance. The notice will be made available to any person upon request made during the appeal period.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exhs. A, B) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

**Commented [PH11]:** Moved from 2.23.130 but modified to mail notice of the decision to applicant and to anyone who requested notification or who made comments, and allowing transmittal by email when requested by recipients (rather than mail decision to applicant by certified mail and to other PoR by mail within 3 days). Note that 16B.07.010 omits sending to PoR as 2.23.130 requires.

**Commented [PH12R11]:** We currently mail the decision to the applicant/agent and to all PoR. No postcards.

## Chapter 16B.09

### ADMINISTRATIVE APPEALS, CLOSED RECORD HEARINGS, AND JUDICIAL APPEALS

Sections:

- 16B.09.010 Administrative Appeal of Project Permits and Environmental Determinations.
- 16B.09.020 Standing to Initiate Administrative Appeals.
- 16B.09.030 Notice of Appeal.
- 16B.09.040 Open Record Appeals.
- 16B.09.045 Open Record Appeal Procedures.
- 16B.09.050 Closed Record Decisions.
- 16B.09.055 Reserved.
- 16B.09.060 Judicial Appeals.
- 16B.09.070 Appeals Standards and Criteria.

#### **16B.09.010 Administrative Appeal of Project Permits and Environmental Determinations.**

(1) An appeal of a Type 1, or 2, or 3 project decision or an appeal of a final environmental threshold determination (SEPA) for a Type 1, 2, or 3 project shall be filed with the Planning Division within fourteen calendar days of the mailing of the final decision or final environmental threshold determination issued under SEPA. If the decision or final threshold determination does not require mailing, the appeal shall be filed within fourteen calendar days following the issuance of the final decision or final threshold determination. Appeals shall be delivered to the Planning Division by mail or personal delivery before close of business on the last day of the appeal period. Project permit applications decisions and final threshold determinations (SEPA) shall be appealable to the appeal body designated in Table 3-1. For appeals of SEPA threshold determinations, see also Section 16B.06.070 of this Title.

**Commented [PH13]:** Revisions reflect: (1) HE makes decision on—rather than appeals of—Type 3 cases. (2) using consistent terms for project decisions and SEPA threshold determinations. (3) deleting “final” to remove the implication that there are non-final project decisions. (4) The BOCC no longer hears appeals; all appeals are heard by the HE.

- (a) If the final decision incorporates the SEPA threshold determination subject to a fourteen-day comment period, a joint twenty-one calendar day appeal period shall be provided on both the project decision and the SEPA threshold determination.
- (b) If the optional process is exercised, and the County determines that no additional comment period is warranted, the appeal process for SEPA and the underlying decision shall be fourteen calendar days from the date of issuance of the SEPA threshold determination.

(2) All appeals shall be in writing, accompanied by an appeal fee, and contain the following information:

- (a) Appellant's name, address, and phone number;
- (b) Appellant's statement establishing standing to initiate the appeal under Section 16B.09.020 of this Chapter;
- (c) An identification of the specific proposal and specific actions, omissions, conditions or determinations for which appeal is sought;
- (d) Appellant's statement of the particular grounds for the appeal, setting forth the principal points of appeal and addressing why the appellant believes the decision to be wrong; and
- (e) The desired outcome or relief sought by the appellant.
- (f) SEPA appeals shall additionally contain the information required by YCC 16B.06.070(4).

(3) The appellant shall bear the burden of proving the decision was made in error.

(4) Upon the timely filing of a completed appeal, the Administrative Official shall set the time and place for the matter to be considered by the appeal body hearing examiner.

(5) The timely filing of an appeal shall stay all actions by the Administrative Official or the Building Official on pending applications for development permits associated with the action or decision being appealed. The filing of an appeal shall not stay the effectiveness or effective date of any enforcement action or decision of violation including cancellations and revocations of permits or approvals.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

**16B.09.040 Open Record Appeals.**

(1) Open record appeals on Type 1 and 2 project permits and environmental determinations (SEPA) shall be heard by the Hearing Examiner. Open record appeals shall be conducted in accordance with Sections 16B.08.030 – 16B.08.060 and 16B.09.045 of this Code for open record public hearings and the adopted rules and procedures of the Hearing Examiner. New evidence or testimony may be given or received at this public hearing. Written argument or memoranda of authority may only be submitted pursuant to YCC 16B.09.045.

**Commented [PH14]:** We are still reviewing the language re virtual hearings.

(2) The decision of the Hearing Examiner on any SEPA appeal or on any Type 1 and 2, and 3 project permit appeal or on any Type 3 decision shall be final and not subject to further administrative appeal.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996).

**Commented [PH15]:** The HE makes decisions on Type 3s and does not hear appeals thereon.

**16B.09.050 Closed Record Decisions.**

(1) Closed record hearings shall be on the evidentiary record established at the prior open record hearing. Such hearings may be conducted in-person, virtually, or both simultaneously in accordance with state law. The record before the Board shall include all materials received in evidence at any previous stage of the review, audio/visual tapes of the prior hearing, the Hearing Examiner's recommendation, and argument by the parties at the Examiner's hearing.

(2) Oral argument at a closed record public hearing is limited to parties of record. Oral argument is allowed on a Type 4 recommendation of the Hearing Examiner.

(3) The Board's action on a closed record hearing shall be as follows:

Following the Board's closed record hearing on a Type 4 recommendation of the Hearing Examiner, the Board may affirm the recommendation of the Hearing Examiner, or may reverse or modify the Hearing Examiner's recommendation.

(4) If the Board renders a decision different from the Hearing Examiner's recommendation, the Board shall adopt amended findings and conclusions accordingly. If the Board affirms the Examiner's determination or recommendation, it may adopt the findings and determinations or recommendations of the Examiner as the final decision.

(5) The Board's final written decision shall constitute a final administrative action for the purposes of Chapter 36.70C RCW. The Administrative Official shall notify all parties of record of the board's decision by mail, including that the decision may be appealed as provided in Chapter 36.70C RCW. The Administrative Official may, however, provide notification by electronic mail when requested by the recipient.

**Commented [PH16]:** This procedure is lacking and needed. The language re 36.70C mimics the language currently used in notices re minor rezones.

(Ord. 7-2017 § 2 (Exh. A)(part), 2017: Ord. 5-2012 § 2 (Exh. A) (part), 2012: Ord. 14-1998 § 1 (part), 1998: Ord. 4-1996 § 1 (part), 1996)

**TITLE 19**  
**UNIFIED LAND DEVELOPMENT CODE**

**Chapters:**

**Subtitle 19.0 Introduction and Administration**

**19.01 General Provisions**

**Subtitle 19.1 Land Use Districts**

**19.10 General Zoning Requirements**

**19.11 Resource and Rural Districts**

**19.12 Urban Residential Districts**

**19.13 Business, Commercial, and Industrial Districts**

**19.14 Allowable Land Use Table**

**19.17 Overlay Districts**

**19.18 Special Uses and Standards**

**Subtitle 19.2 Improvements and Site Design**

**19.20 Signs**

**19.21 Site Screening and Landscaping**

**19.22 Parking and Loading**

**19.23 Transportation and Circulation**

**19.25 Sewer and Water**

**Subtitle 19.3 Procedures**

**19.30 Applications**

**19.31 Interpretations**

**19.33 Nonconforming Lots, Structures and Uses**

**19.34 Divisions of Land**

**19.35 Administrative Adjustments, Modifications and Variances**

**19.36 Amendments and Rezones**

## Chapter 19.01

### GENERAL PROVISIONS

Sections:

- 19.01.010 Introduction.
- 19.01.020 Compliance.
- 19.01.030 Severability and Validity.
- 19.01.040 Repealer.
- 19.01.050 Authority.
- 19.01.060 Enforcement.
- 19.01.070 Definitions.

#### **19.01.070 Definitions.**

For this Title, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified unless the context requires a different meaning. Where terms are not defined, they shall have the ordinary accepted meaning within the context with which they are used. Where an activity or land use could fall under two definitions, the more specific shall apply. The Webster's Ninth New Collegiate Dictionary, with the assistance of the American Planning Association Planning Advisory Service's "A Planner's Dictionary" and Black's Legal Dictionary shall be the sources for ordinary accepted meaning and for the definition of words not defined below. Specific examples are included as illustrations, but are not intended to restrict a more general definition.

##### (1) "A" Definitions.

Applicant	"Applicant" means a person submitting an application for any permit or approval required by this Title and who is the owner of the subject property or the authorized agent of the owner, as defined by this Title.
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##### (3) "C" Definitions.

Closed record appeal	"Closed record appeal" means an administrative appeal or hearing, conducted by the Board of County Commissioners following an open record hearing conducted by the Hearing Examiner on a project permit application. The appeal or hearing is on the record with only appeal argument allowed. See also RCW 36.70B.020(1).
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**Commented [PH1]:** Yakima County eliminated closed record appeals with a code change in 2017. (The BOCC no longer hears appeals. The final administrative appeals are currently conducted by the Hearing Examiner.)

##### (8) "H" Definitions.

Hearing Examiner	"Hearing Examiner" or "Examiner" means that person appointed by the Board of Commissioners <u>in accordance with YCC 2.23 to conduct open record hearings on project permit applications.</u>
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**Commented [PH2]:** Making language identical to 16B.02.070 (HE).

(Ord. 10-2019 (Exh. 1) (part), 2019; Ord. 9-2019 (Exh. 3), 2019; Ord. 6-2018 § 2(G)(i)(2) (Exh. 6(2)(A)), 2018; Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

## Chapter 19.14

### ALLOWABLE LAND USE TABLE

Sections:

19.14.010 Allowable Land Use Table.

**19.14.010 Allowable Land Use Table.**

(1) The following Table 19.14-1 indicates those uses which may be permitted through Type 1, 2, 3 or 4 review in the various zoning districts defined in this title. In addition to Table 19.14-1, reference to the individual zoning districts and, where indicated, the notes following the table and definitions of 19.01.070, is necessary in order to determine if any specific requirements apply to the listed use.

(2) Uses. The uses set out in Table 19.14-1 are examples of uses allowed in the various zoning districts defined in this title. The appropriate review authority is mandatory. See YCC Title 16B for more explicit definitions of Type 1, 2, 3, and 4 uses/reviews.

“Type 1” Uses allowed subject to approval of applicable permits where required. Type 1 uses usually require Type 1 review, but may require Type 2 review under certain conditions.

“Type 2” Uses allowed upon Type 2 administrative review and approval as set forth in Section 19.30.030 uses subject to review and approval. Type 2 uses require administrative review by the Administrative Official and may be referred to the Hearing Examiner. [\[The Hearing Examiner will review such uses using Type 2 approval criteria.\]](#)

“Type 3” Uses which may be authorized subject to the approval of a conditional use permit as set forth in Section 19.30.030. Type 3 conditional uses are not generally appropriate throughout the zoning district. Type 3 uses require Hearing Examiner review of applications subject to a Type 3 review under the procedures of Section 19.30.100 and YCC Subsection 16B.03.030(1)(c).

“Type 4” Uses which may be allowed subject to the approval of a project permit as set forth in Section 19.30.030. Type 4 uses require both the Hearing Examiner and Board of County Commissioners review of applications subject to a Type 4 review under the procedures of Sections 19.30.080, 19.36.030, and YCC 16B Subsection 16B.03.030(1)(d).

“Blank” Uses specifically prohibited.

**Commented [PH3]:** Adding a clarification as provided under 19.30.080(8)(d)

A higher level of review may be required for a use located within one or more overlay districts, designated in Chapter 19.17, or where circumstances merit a higher level of review as described in Section 19.30.030. Where a use is not listed, it is specifically prohibited or subject to a similar use interpretation in Chapter 19.31.

## **Chapter 19.30**

### **APPLICATIONS**

Sections:

- 19.30.010 Legislative Intent.
- 19.30.020 Required Permits.
- 19.30.030 Application and Use Categories.
- 19.30.040 Pre-application Conference.
- 19.30.060 Application Requirements.
- 19.30.070 Site Plans for Project Permits – Form and Contents.
- 19.30.071 Site Plans for Project Permits – Boundary Line Adjustments.
- 19.30.072 Site Plans for Project Permits – Preliminary Short Plats.
- 19.30.073 Site Plans for Project Permits – Preliminary Plats.
- 19.30.074 Site Plans for Project Permits – Binding Site Plans.
- 19.30.075 Site Plans for Project Permits – Master Planned Resorts (MPR).
- 19.30.080 Application Review Procedures.
- 19.30.090 Type 1 Application Approval Criteria and Conditions.
- 19.30.100 Conditions for Approval of Type 2, 3 and 4 Applications.
- 19.30.110 Final Decisions.
- 19.30.120 Compliance with Conditions, Safeguards and Mitigation Required – Revocation of Project Permits.
- 19.30.130 Performance Assurance.

**19.30.030 Application and Use Categories.**

Actions and uses under this Title are grouped into categories, each with a corresponding review process as defined in YCC Section 16B.03.030. If an application does not meet minimum approval criteria or standards for the zone and this Title, or cannot be adequately conditioned at a particular location, it shall be denied. A project permit, other than a nonconforming use permit, may not be granted for a classified use in a zoning district from which it is specifically prohibited. Applications are categorized as follows:

- (1) Type 1 Applications.
  - (a) The Administrative Official reviews applications subject to Type 1 review under the procedures of Section 19.30.090 and YCC Chapter 16B.03 for compliance with this Title.
  - (b) Applications requiring Type 1 review include:
    - (i) Boundary line adjustments;
    - (ii) Segregations within an approved binding site plan for commercial and industrial development;
    - (iii) Administrative modifications to existing or approved uses where authorized by this Title; and
    - (iv) Type 1 Permitted Uses shown on the Allowable Land Use Table 19.14-1 in Chapter 19.14, except when required to undergo Type 2 review under Subsection (1)(c) below. The Reviewing Official shall use the procedures in YCC Subsection 16B.03.030(1)(a), Sections 19.30.080 and 19.30.090 to review Type 1 Permitted Uses and associated site improvements for compliance with the provisions and standards of the zoning district in which they are located.
  - (c) Type 1 Permitted Uses require Type 2 review when:
    - (i) All or part of the development, except for agricultural buildings, single-family dwellings and duplexes are in the 100-year floodplain or Greenway Overlay (GO);
    - (ii) All or part of a development that is in a Master Planned Development Overlay (MPDO) and is identified in a development agreement as requiring Type 2 approval;

- (iii) The proposed use includes hazardous material, as defined in Section 19.01.070;
- (iv) All or part of the development requires a modification to an existing development plan and/or master plan associated with a Master Planned Development Overlay;
- (v) The Reviewing Official cannot determine from the application submitted that the use will meet the approval standards in Section 19.30.090; or
- (vi) The permitted use could be approved subject to broader condition authority under Section 19.30.100.

(d) Type 1 Uses generally not subject to project review by the Administrative Official provided all applicable standards of this Title are met and/or when categorically exempt from environmental review under YCC Section 16.04.100, or for which environmental review has been completed in connection with other project permits, and when locating on an existing lot:

- (i) Site-built or modular dwellings and two-family dwellings;
- (ii) Manufactured home meeting requirements of Section 19.18.270;
- (iii) Mobile or manufactured homes of any size in approved or existing mobile/manufactured home parks;
- (iv) Multi-wide manufactured home in approved or existing manufactured home subdivisions;
- (v) Single-wide manufactured home in approved or existing manufactured home subdivisions;
- (vi) Single-wide manufactured home, on an individual lot meeting the criteria in Section 19.18.270;
- (vii) Sales office within a residential or mixed-use project while units in the project are sold by the developer;
- (viii) Garages and other accessory structures associated with (i) through (vii) above, but not including accessory dwelling units;
- (ix) Forestry;
- (x) Agriculture other than Animal Feeding Operations and Concentrated Animal Feeding Operations, slaughterhouses and rendering plants, and sprayfields;
- (xi) Agricultural buildings;
- (xii) Structures used for storage of fuel or agricultural products;
- (xiii) Excavations;
- (xiv) Irrigation distribution/drainage facilities, including impoundment of water, dams and frost ponds; and
- (xv) Utility services (substations, reservoirs, etc.), when no building or series of buildings requires a building permit.

(2) Type 2 Applications.

(a) The Administrative Official (and the hearing examiner when such applications are referred by the Administrative Official under YCC 19.14.010(2)) reviews applications subject to Type 2 review under the procedures of Section 19.30.100 and YCC Chapter 16B.03 for compliance with this Title as provided by YCC Subsection 16B.03.030(1)(b).

**Commented [PH4]:** Adding a clarification as provided under 19.30.080(8)(d)

(b) Applications subject to Type 2 review include:

- (i) Short plats and recorded short plat alterations/vacations that do not involve a public dedication [See Subsection 19.34.040(9)];
- (ii) New binding site plans for commercial and industrial development;
- (iii) Administrative adjustments to standards where authorized by this Title; and
- (iv) Type 2 Administrative Uses shown on the Allowable Land Use Table 19.14-1 in Chapter 19.14 are generally allowed in the zoning district. The compatibility between a Type 2 Administrative Use and the surrounding environment cannot always be determined in advance. Therefore, a Type 2 Administrative Use may be conditioned to ensure compatibility and compliance with the provisions of the zoning district and the goals, objectives and policies of the Comprehensive Plan.

(3) Type 3 Applications.

(a) The Hearing Examiner reviews applications subject to Type 3 review under the procedures of Section 19.30.100 and YCC Subsection 16B.03.030(1)(c).

(b) Applications subject to Type 3 review include:

- (i) Variances;
- (ii) Non-conforming use expansions or alterations, other than residential structures and specified mining operations;
- (iii) Plat vacations or alterations under Chapter 58.17 RCW;
- (iv) Major modifications to a Master Development Plan;
- (v) Type 3 review required for Type 2 Administrative Uses referred by the Administrative Official for Type 3 review and for other specific reviews established by this Title. Such referred reviews are subject to the criteria of 19.30.020(2)(b)(iv) for Type 2 uses; and
- (vi) Uses shown on the Allowable Land Use Table 19.14-1 in Chapter 19.14, Type 3 Conditional Uses are not generally appropriate throughout the zoning district.

(4) Type 4 Quasi-Judicial Applications. Long Plat Applications, new or expanded Master Planned Developments in Urban Growth Areas, Master Planned Resorts (MPRs) in rural or resource areas, Minor Rezones or any other Type 4 use or development listed in the Allowable Land Use Table 19.14-1 found in Chapter 19.14 are subject to Type 4 review. The process for review of Type 4 applications shall be as set forth in YCC Subsection 16B.03.030(1)(d) and Section 19.30.080 and the process for Minor Rezone applications shall be as set forth in Section 19.36.030.

(5) Accessory Uses. Accessory uses may be permitted when a principal use has been established. Accessory uses are customarily incidental and subordinate to the principal use of a structure or site. Refer to Section 19.18.020 for regulations governing accessory uses.

(6) Existing Uses. Within the zoning districts established by this Title, or zoning district amendments that may later be adopted, there may exist uses that were legally established prior to the effective date of this Title or applicable amendment that are classified as a Type 1, 2, 3 or 4 use in a particular zoning district. Such uses shall be considered Existing Type 1, 2, 3 or 4 uses, and subject to the review standards pertaining thereto under current code. Previously approved uses may continue according to their conditions of approval, whether classified as existing or nonconforming. A change in classification as existing or nonconforming will be reviewed under its new classification at such time the use is altered, amended, modified or expanded.

(7) Prohibited Uses Production, Processing and Retailing of Marijuana Prohibited. Production, processing and retail sales of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington Chapter 69, and implementing regulations in Chapter 314-55 of the Washington Administrative Code, are each prohibited and not allowed in any zone within the unincorporated areas of Yakima County.

(8) Development Permits for Master Planned Resorts. The Resort Development Plan authorized in conjunction with the rezone to MPR is the guide for development of the resort. Establishment of the uses identified in the Resort Development Plan shall be subject to Type 1 review, in order to conduct site-specific review of the individual uses.

(a) Establishment of land uses and any division of land by subdivision or condominium must be consistent with:

- (i) The authorized RDP;
- (ii) Any specific conditions or required mitigation measures;
- (iii) SEPA review, including an environmental checklist; and
- (iv) All necessary construction authorization permits.

(b) Components or phases of the authorized RDP may be submitted with other required approvals as a master application.

(Ord. 7-2013 § 1 (Exh. A) (part), 2015).

## Chapter 19.36

### AMENDMENTS AND REZONES

Sections:

- 19.36.010 Legislative Intent.
- 19.36.020 Text Amendments.
- 19.36.030 Minor Rezone – Map Amendment.
- 19.36.040 Major Rezones.
- 19.36.050 Appeals.

**19.36.030 Minor Rezone – Map Amendment.**

Rezone applications consistent with Table 19.36-1 and not dependent upon a comprehensive plan or sub-area plan amendment shall be considered minor rezones. These quasi-judicial actions, when site-specific, may be processed at any time under Type 4 review pursuant to YCC Section 16B.30.030. The decision criteria for minor rezones are listed in Subsection (5) below.

(1) Initiation. An amendment to the zoning maps that are not contingent upon legislative approval of a comprehensive plan map amendment as set forth in Table 19.36-1 or sub-area plan map amendment may be initiated by:

- (a) The Board;
- (b) The Planning Commission; or
- (c) A minor rezone application filed by the property owner(s).

(2) Application. All minor rezone applications shall be filed with the Planning Division, and shall be processed under the provisions of Chapter 19.30 and YCC Title 16B.

(3) Public Hearing by the Hearing Examiner. Upon receipt of a complete application for a minor rezone, the Planning Division shall review the proposal using the decision criteria listed in Subsection (5) below and forward the application and a recommendation to the Hearing Examiner for an open record public hearing and review in conformance with YCC Sections [16B.08.010](#) and [16B.08.020](#). Provided, that rezone applications initiated by the County to implement a newly adopted or amended Comprehensive Plans, or which are of broad general applicability shall be heard by the Planning Commission under the provisions of RCW Chapter 36.70 and 36.70A. The public hearing shall be held ~~and after~~ notice ~~is~~ provided under YCC Chapter 16B.08. ~~The applicant shall personally appear in person or by agent or attorney. Failure to do so shall constitute sufficient cause for denial of the requested action.~~ Other parties may ~~personally~~ appear ~~in person~~ or by agent or attorney, or may submit written comments.

**Commented [PH5]:** This section is proposed to be amended to provide for hearings to be conducted in-person, virtually, or both simultaneously in accordance with state law.

~~(4) Recommendation by the Planning Commission. The Planning Commission may, if requested by the Hearing Examiner, submit a recommendation on the proposed minor rezone to the Hearing Examiner prior to the issuance of his decision. The recommendation of the Planning Commission shall not be binding on the Hearing Examiner.~~

**Commented [PH6]:** This clause authorizing the Hearing Examiner to deny a minor rezone when the applicant/agent fails to appear is proposed for deletion for several reasons: 1) the HE does not approve or deny minor rezones, they only make recommendations to the BOCC; 2) recommending denial is within the HE's authority in any event; 3) the clause does not apply to any other HE decisions/recommendations (e.g., Type 3s, interpretations, subdivisions, open record appeals, etc.).

~~(5) Decision Criteria.~~ The Hearing Examiner shall issue a written recommendation to approve, approve with conditions or deny the proposed minor rezone. The recommendation shall include the following considerations:

- (a) The testimony at the public hearing;
- (b) The suitability of the property in question for uses permitted under the proposed zoning;
- (c) The recommendation from interested agencies and departments;
- (d) The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Comprehensive Plans, adopted neighborhood plans and the intent of this Title;

**Commented [PH7R6]:** Changing "in-person" to "personally" in order to allow virtual attendance.

**Commented [PH8]:** This process has never been used. We foresee problems with using it and therefore anticipate that we would never want to use it.

- (e) The adequacy and availability of public facilities, such as roads, sewer, water and other required public services;
- (f) The compatibility of the proposed zone change and associated uses with neighboring land uses;
- (g) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the Comprehensive Plan and this Title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum, document:
  - (i) Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate; and,
  - (ii) Whether the timing is appropriate to provide additional land for a particular use; and,
- (h) Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone.

**(65)** The decision of the Hearing Examiner on minor rezone applications shall constitute a recommendation to the Board.

**(76)** Action by the Board. Upon receipt of the Hearing Examiner's recommendation on a proposed minor rezone, the Board shall conduct a closed record public hearing to affirm, modify, approve subject to a concomitant development agreement under YCC Section 16B.03.080, or reject the recommendation of the Hearing Examiner.

**(87)** Time Limit and Notification. Notification of a final decision on a proposed minor rezone by the Board shall be issued as required under YCC Chapter 16B.07.

(Ord. 7-2013 § 1 (Exh. A) (part), 2015).

**19.36.040 Major Rezones.**

Amendments to the zoning map that are contingent upon legislative approval of a comprehensive plan amendment are deemed to be legislative and shall be considered ~~a~~ major rezones and that are subject to the procedures outlined in YCC Chapter 16B.10.

**Commented [PH9]:** Clarification.

(Ord. 7-2013 § 1 (Exh. A) (part), 2015).

**19.36.050 Appeals.**

The decision of the Board on a minor rezone shall be final and conclusive unless an aggrieved party files an appeal under RCW 36.70C within the timeframes and procedures specified therein.

**Commented [PH10]:** Clarification.

**Chapter 20.01****YAKIMA COUNTY FEE SCHEDULE**

## Sections:

20.01.010 Title.  
 20.01.020 Purpose.  
 20.01.030 Applicability.  
 20.01.040 Schedule of Fees.  
 20.01.050 Yakima County Code Chapter 5.06 - Adult Entertainment Facilities.  
 20.01.060 Yakima County Code Chapter 12.10 - Stormwater and Drainage Authority.  
 20.01.070 Yakima County Planning Division.  
 20.01.080 Reserved.  
 20.01.090 Automatic Fee Schedule Adjustment.

**20.01.070 Yakima County Planning Division.**

(1) Application fees - YCC Title 16B. The fees listed in Tables 20.01.070-1, 20.01.070-2, 20.01.070-3, 20.01.070-4 and 20.01.070-5 are based on an hourly minimum charge ("base"). An additional hourly charge listed in Table 20.01.070-6 applies after the base fee has been utilized. The base fee and any additional hourly fees include expected preapplication activity, application intake, processing, staff recommendations and, if a prior public hearing is not required, a decision. The base fee does not include additional fees such as those for public notice, other permits and applications listed in this Section, Hearing Examiner charges, inspection for compliance, copies of documents, Auditor's recording fees, the preparation and execution of agreements to pay fees and other written agreements with the County, and other fees listed in Table 20.01.070-6. Issuance of a development authorization or decision is contingent upon the payment of all fees and charges associated with the processing of the application.

[...]

**Table 20.01.070-2. Type 2 Permits.**

	<b>2016 Base Fee</b>
Final short plat alteration or vacation (YCC 19.34.040(8))	\$ 1,060.00
Short plat preliminary application (YCC 19.34.040(3))	\$ 1,060.00
Short plat preliminary application amendment	\$ 485.00
Short plat final application (YCC 19.34.040(7))	\$ 485.00
Binding site plan preliminary application (YCC 19.34.080(3)(a)(v)) <sup>(2)</sup>	\$ 1,925.00
Binding site plan final application (YCC 19.34.080(3)(a)(vi))	\$ 870.00
Binding site plan vacation or alteration (YCC 19.34.080(4))	\$ 1,060.00
Administrative or Type 2 use, not otherwise specified (YCC 19.30.030(2)) <sup>(3)</sup>	\$ 1,925.00 <del>(4)</del>
Reduction to resource setbacks, Type 2 (YCC 19.35.020(6)(b))	\$ 870.00
Clustering existing lots - Type 1 review through the Boundary Line Adjustment (YCC 19.34.035)	\$ 1,255.00 <sup>(1)</sup>
Linear transmission facilities (YCC 19.18.260)	\$ 10,410.00
Zoning non-conforming use or structure alteration, enlargement, expansion or extension. YCC 19.33.060(4)(d)	\$ 1,450.00

**Commented [PH1]:** This deletion fixes a scrivener's error. Footnote (4) was deleted years ago, but not this reference to it.

	<b>2016 Base Fee</b>
Zoning non-conforming dwelling expansion not exceeding 50% of the gross floor area and new detached structures accessory to the dwelling, other than an accessory housing unit. YCC 19.33.060(4)(c)	\$ 485.00
Zoning non-conforming use change to another non-allowed use. YCC 19.33.060(5)(b)	\$ 1,450.00
Administrative adjustments for Type 1 & 2 uses, <sup>(3)</sup> consolidated with another application requiring Type 2 or higher development authorization (YCC 19.35.020)	\$ 295.00
Administrative adjustments for Type 1 & 2 uses, <sup>(3)</sup> not consolidated with another application requiring Type 2 or higher development authorization (YCC 19.35.020)	\$ 1,060.00
Minor modification to a master planned development overlay or institutional overlay (YCC 19.35.055(2))	\$ 970.00
Substantial development permit <sup>(3)</sup> (YCC 16D.03.19)	\$ 3,080.00
Adjustment (YCC 16C.03.23) <sup>(3)</sup>	\$ 870.00
Standard development permit, Type 2 (YCC 16C.03.20)	\$ 870.00
Shoreline conditional use permit (YCC 16D.03.21) - includes substantial development permit	\$ 3,270.00
Shoreline variance (YCC 16D.03.22) - includes substantial development permit	\$ 3,270.00
Critical areas non-conforming use alteration / structures or areas (YCC 16C.03.26)	\$ 970.00
Shoreline non-conforming use alteration / structures or areas (YCC 16D.03.26)	\$ 970.00
Additional fee for State Environmental Policy Act (SEPA) review (YCC 16.04.280)	\$ 295.00

## Notes:

- (1) The base fee for clustering of existing lots under YCC 19.34.035 shall be the base fee required for Type 1 Boundary Line Adjustments authorizations plus additional fee for each lot after the first two lots.
- (2) The base fee for altering the size of one or more established building sites within the binding site plan shall be the same as for a Type 1 segregation within an approved commercial or industrial binding site plan if all development standards, infrastructure, and other aspects of the proposal will be unchanged and consistent with conditions or requirements imposed by a previously approved permit.
- (3) Administrative use applications, zoning variances, administrative adjustments and substantial development permits may be referred by the Administrative Official to the Hearing Examiner for [an open record public hearing and final decision in a manner similar to a using Type 32 application approval criteria](#). In such ~~a~~ cases the application fee will be the same as for ~~a conditional~~ [an administrative](#) or Type ~~32~~ use.

[...]

**Commented [PH2]:** If the County decides to elevate a Type 2 use to a Type 3 review, the county -- rather than the applicant -- should bear the additional cost.

**TITLE 21**  
**CODE ENFORCEMENT**

**Chapters:**

- 21.01 General Provisions**
- 21.02 Violations**
- 21.03 Notices**
- 21.04 Penalties**
- 21.05 Liens**
- 21.06 Administrative Appeal to the Hearing Examiner**

**Chapter 21.06**

**ADMINISTRATIVE APPEAL TO THE HEARING EXAMINER**

Sections:

- 21.06.010 Administrative Appeals.
- 21.06.020 Appeal Procedures.
- 21.06.030 Pre-Hearing Procedures.
- 21.06.040 Appeal Hearings.
- 21.06.050 Decision.
- 21.06.060 Notice of Decision.
- 21.06.070 Failure to Appear.

**21.06.060 Notice of Decision.**

The Hearing Examiner shall transmit their decision to the Yakima County Public Services within ten working days after the appeal hearing. ~~Notice of the Hearing Examiner's decision shall be in accordance with YCC Title-2.23.130. Yakima County Public Services shall provide notice of the Hearing Examiner's decision to the appellants and to other parties of record in accordance with YCC 16B.08.050(4).~~

(Ord. 11-2019 (part), 2019).

**Commented [PH1]:** We propose to delete YCC 2.23.130 and therefore revise the citation to 16B.08.050(4) and provide additional procedural clarifications.