

Yakima County Critical Areas Ordinance User's Guide

Introduction

This User's Guide provides a framework for the organization of the Yakima County Critical Areas Ordinance (CAO), Yakima County Code Title 16C. These regulations can be complicated and difficult to understand. An appreciation of the organization of the law helps make sense of complicated language and gives insight into how the ordinances are applied.

The User's Guide is divided into four parts: legal requirements, organization of the code, protection of critical areas, and permit review. Legal requirements for the CAO are located in state law and affect the organization of local regulations. The next section describes the organization of the regulations to provide a general understanding of the ordinance. The third part outlines the protective measures for individual critical areas. A description of the permit process is provided last to illustrate how a proposed project would go through the permitting process.

It is important to remember that ordinance standards only apply to new development, including changes in use. Lawfully established uses may continue to operate as they historically have without a requirement to change their practices.

Legal Requirements to Protect Critical Areas

The 1990 Growth Management Act (RCW 36.70A) requires local jurisdictions to designate and protect critical areas. State law defines critical areas as wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. All critical areas must be designated and their functions and values protected using Best Available Science (BAS). As salmonid fish species play an extremely important role in the ecosystem and are vital cultural resources, jurisdictions must also "give special consideration to conservation and protection measures necessary to preserve or enhance anadromous¹ fisheries."

Organization

The CAO and the Yakima County Regional Shoreline Master Program are organized in parallel structure, with similar chapters and requirements. Both ordinances regulate critical areas; which ordinance applies depends on whether the critical area is inside or outside of Shoreline jurisdiction. There is no overlap between the CAO and SMP; the CAO protects critical areas outside Shoreline jurisdiction, the SMP protects critical areas within Shoreline jurisdiction.

Types of Requirements – Two types of requirements apply to every project. Each project will need to meet a set of Permit Requirements (listed in Chapter 3 – Application and

¹ Anadromous fish hatch in fresh water, spend part of their life cycle in salt water, and return to fresh water to breed.

Review Procedures) and a set of Specific Critical Area Requirements (found in chapters on the affected critical areas).

- 1) **Permit requirements** – All new development proposals impacting critical areas require critical areas permitting. Critical Areas Permit types include Critical Area Adjustment Permits, Critical Area Standard Development Permits, and Reasonable Use Exceptions.
- 2) **Specific critical area requirements** – There are General Policies and Standards that apply to any development, construction, or use carried out within a designated critical area. In addition to the general policies and standards, individual critical areas and activities have specific standards.

Components of any development, construction, or use requiring a permit also conform to “use classification” criteria. Use classifications relate a project's water dependency to buffers. For example, bridges are inherently water dependant in that they must be constructed over a stream. Water dependent uses do not need to meet buffer requirements, while non-water dependent uses need to meet buffer requirements.

How Different Critical Areas are Protected

Each type of critical area has its own chapter within the CAO. Those chapters outline the purpose and intent of the chapter and also the County's approach taken to protect the specific critical area through specific development standards.

Flood Hazard Areas (Chapter 5) – This chapter contains the County's Flood Hazard regulations that are necessary for County residents to be eligible for flood insurance. The Yakima County Chief Building Official administers Chapter 5 through a separate permitting process.

Fish and Wildlife Habitat and the Stream Corridor System (Chapter 6) – Aquatic and riparian habitats (habitats found in or near water) are Hydrologically Related Critical Areas (HRCAs) in the CAO, and addressed in this chapter. The CAO establishes protection measures for streams and wetlands. The HRCA chapter contains three types of development standards which are grouped together under named headers in the chapter, they include:

1. **General Development Standards** – These apply to all developments and include prohibited uses.
2. **Buffers and Water Dependency Development Standards** – Different parts of a project are more water-dependent than others. Those parts that are water-dependent may not need to meet the buffer requirements, while those that aren't must meet the buffer requirements.
3. **Land Modification Development Standards** – Different parts of a project involve different types of facilities or work, such as building roads, installing utilities,

excavation, or filling. Development standards for those activities are required to be met whenever applicable.

Wetlands (Chapter 7) – The County's protection approach for wetlands relies on the Fish and Wildlife Habitat protection measures in Chapter 6 to protect wetlands. Yakima County has four categories of wetlands based on their functions and values. Criteria for the wetland categories are provided in the *Washington State Wetland Rating System for Eastern Washington*, revised August 2004.

Geologic Hazards (Chapter 8) – Geologically hazardous areas include those areas susceptible to geological events, such as earthquakes and landslides. The purpose of the Geologically Hazardous Areas chapter is to minimize risks to public health and safety, to maintain natural geological processes while protecting development, and to establish a review process for development proposals in geologically hazardous areas. The County relies on the International Building Code (IBC) for addressing many geologic hazards, but also establishes a system to review types not covered by the IBC.

Critical Aquifer Recharge Areas (Chapter 9) – Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water. The CAO designates and protects CARAs through the review of performance standards.

Upland Wildlife Habitat Conservation Areas (Chapter 11) – Upland Wildlife Habitat Conservation Areas (UWHCA) are areas within the county where state or federally designated endangered, threatened, or sensitive species have a primary association. Developments proposed within UWHCA may require a habitat assessment if it is determined that the development proposal could impact the UWHCA. The County relies on existing large lot zoning districts to protect existing blocks of upland habitat and keep human pressure on animals low. The County also relies on existing State and Federal wildlife habitat programs.

How a Permit is Reviewed

The following flowchart describes how the CAO works by taking an applicant through the review process and referencing or discussing the important parts of the ordinance. Notice that a major component of review is focused on Inquiry and Early Assistance. There are two primary reasons for this: first, the location of critical areas needs to be determined. Critical area maps are intended as a reference and act as a "red flag" which will cause staff to look more closely at available information and determine actual critical area presence on the site rather than assuming the map is correct. Maps are improved and corrected as site specific information becomes available. Secondly, emphasis is placed on assisting applicants to design their project to meet the standards before extensive time and money is expended on plans that do not meet the standards. Additional information on each of the questions of the flowchart is provided below.

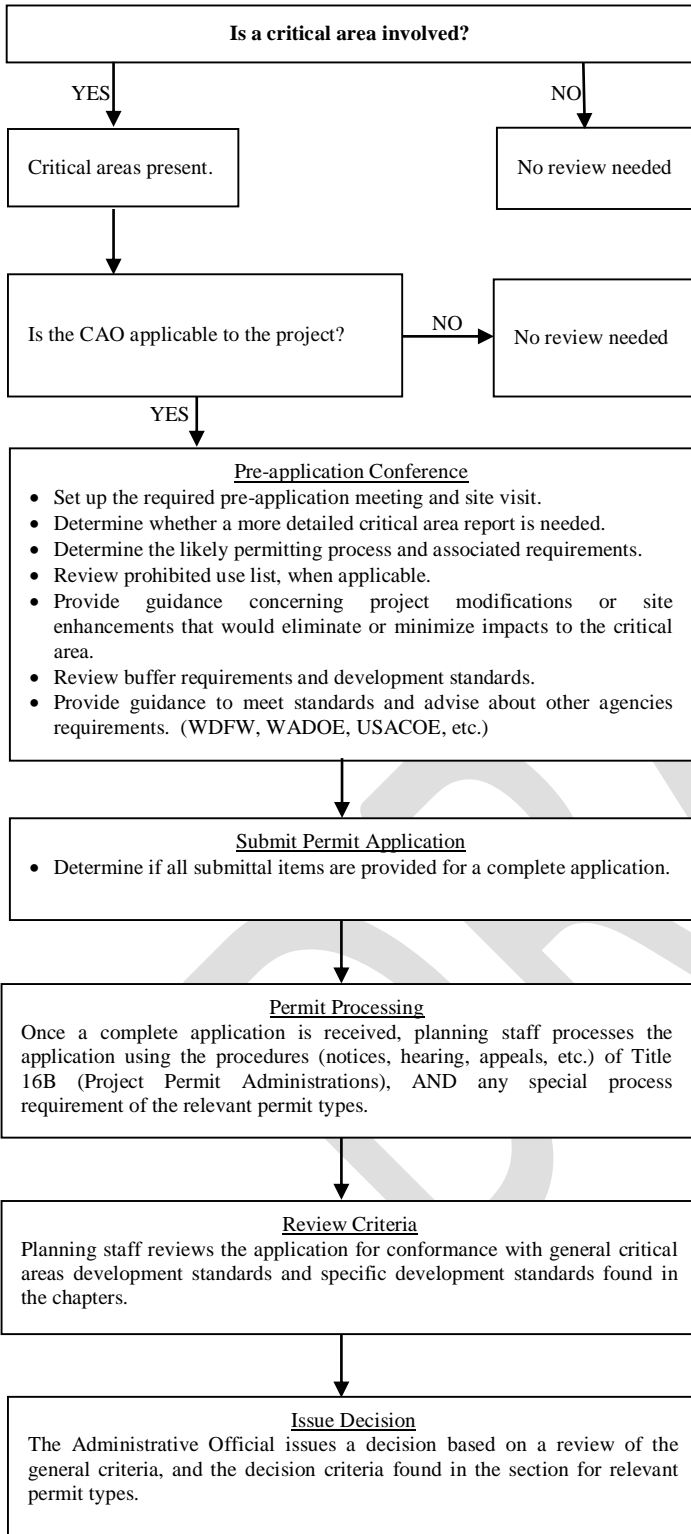
Are there critical areas involved? – The first thing to determine is whether or not there are critical areas involved. If no critical areas are present or the proposed development will not affect critical areas, a critical areas permit will not likely be required.

Is the CAO applicable to the project? – Some projects do not need CAO review. These projects are typically minor activities that do not require a permit. If the CAO is applicable to the proposal, then a Pre-application Conference is required. A Pre-application Conference is a site visit or a face-to-face meeting between the applicant or their representative and an Environmental and Natural Resources planner. The purpose of Pre-application Conference is primarily to establish the scope of the project, identify which type of permit will be required, and to provide assistance in meeting the provisions of the applicable regulations.

A permit is required – Once a complete application is received, Planning staff will process the application using the procedures (notices, hearing, appeals, etc.) of Title 16B (Project Permit Administrations), and any special process requirement of the relevant permit types. Planning staff reviews the application for conformance with general critical areas development standards and specific development standards found in the chapters. The Administrative Official then issues a decision based on the findings of that review. Timelines for processing a Critical Areas Permit are six to eight weeks, depending on the complexity of the project.

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CAO Permit Process Flowchart



CAO Permit Process Timeline

