TABLE OF CONTENTS

Chapter 16C.01
GENERAL PROVISIONS

Sections:

16C.01.01 Title and Authority

Yakima County Code (YCC) Title 16C is established pursuant to RCW 36.70A.060 (Growth Management Act Natural resource lands and critical areas -- Development regulations), RCW Chapter 43.21C (State Environmental Policy Act), RCW 86.16, and federal requirements for eligibility in the National Flood Insurance Program, pursuant to the Code of Federal Regulations (CFR) 44CFR, Parts 59 and 60. This title shall be known as the "Critical Areas Ordinance of Yakima County, Washington."

16C.01.02 Language Interpretation

Unless specifically defined in Chapter 16C.02, words, phrases and terms in this title shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application. "Shall" is mandatory; "may" is discretionary and does not impose a requirement; "should" is always advisory; "include(s)" means includes but not limited to. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural; and the plural, the singular.

16C.01.03 Purpose of Title

The purpose of Title 16C is the following:

(1) Designate, protect, and maintain the function and values of critical areas and give special consideration to conservation or protections measures necessary to reserve or enhance anadromous fisheries.

(2) Ensure a single, uniform system of procedures and standards be applied to development within designated critical areas of unincorporated Yakima County.

16C.01.04 Intent of Title

(1) Title 16C establishes policies, standards, and other provisions pertaining to development within designated critical areas regulated under the provisions of the Growth Management Act (RCW 36.70A), and development regulated under the National Flood Insurance Program and RCW 86.16. Additional purpose and intent for the protection of critical areas is provided in the chapter on each subject. Stream corridors, frequently flooded areas, wetlands, critical aquifer recharge areas, geologically hazardous areas and fish and wildlife habitat areas constitute Yakima County's critical areas. These areas are of special concern to the people of Yakima County and the state of Washington because they are environmentally sensitive lands,

or hazardous areas, which compose an important part of the county's natural resource base. The policies, standards and procedures of this title are intended to:

(a) Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions, particularly the functional properties of stream corridors and other hydrologically related critical areas;
(b) Prevent further degradation of critical areas;
(c) Conserve, protect and, where feasible, restore essential or important natural resources.
(d) Protect the public health, safety and general welfare;
(e) Further the goals and objectives of the Yakima County Comprehensive Plan and all of its elements;
(f) Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A), and the National Flood Insurance Program;
(g) Recognize and protect private property rights;
(h) Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of Adjustment, Reasonable Use provisions and Non-Conforming Use and Facility provisions;
(i) Recognize that mining and related uses are an appropriate use within designated critical areas when conducted in a manner consistent with the laws of the state that already govern mining including, but not limited to, the Surface Mining Act, RCW Chapter 78.44.

(2) In addition, the policies, standards and procedures of this title:

(a) Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective dates of provisions in the Critical Areas Ordinance;
(b) Are not intended to result in an unconstitutional taking of private property;
(c) Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance; but rather to utilize restoration as a tool to mitigate impacts of new development;
(d) Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with non-regulatory tools in as balanced a manner as possible;
(e) Are not intended to prohibit the use of valid water rights.

16C.01.05 Applicability

(1) Except as provided in subsection (3) below, the provisions of this title shall apply to any new development, construction or use within the unincorporated portion of Yakima County designated as a critical area, irrespective of parcel boundaries, outside Shoreline jurisdiction, as determined by the Shoreline Master Program (YCC Title 16D), and upon any land mapped and designated as a special flood hazard area under the National Flood Insurance Program or as a frequently flooded area designated by this title; however, this title does not apply to the situations below, except that the Flood Hazard protection provisions of Chapters 16C.05.20 through 16C.05.72 will continue to apply as determined by the applicability provision in 16C.05.20:

(a) Within critical areas designated by this title or amendments that may later be adopted, there may exist lots, structures and uses which were lawfully established before this title was initially adopted, amended or readopted, as provided below, but which would be

subsequently prohibited, regulated or restricted under this ordinance. It is the intent of this title to permit these pre-existing legal non-conformities to continue without requirement to change said non-conformity until such time as conformance is required through permits for development in the future. The adoption and amendment dates of the relevant regulations are provided below;

i) Critical Areas Ordinance adopted July 12, 1994;
ii) Critical Areas Ordinance amended October 1, 1995
iii) Flood Hazard Ordinance adopted June 5, 1985;
iv) Critical Areas Ordinance amended December 15, 2007 (GMA Update);
v) Critical Areas Ordinance amended June 30, 2017 (GMA Update).

(b) Critical areas on federally owned lands are not subject to this title;

(c) Forest practices, as defined by this title, carried out under a Washington Department of Natural Resources Forest Practice permit are not subject to this title, except those that involve a conversion of forest land to a non-forestry use, involve a conversion option harvest plan, or take place on lands platted after January 1, 1960;

(d) Livestock grazing on publicly owned land, when carried out under an agreement that includes a resource management plan that will be monitored by a public entity is not subject to this title;

(e) Changing agricultural crops within an existing farming operation is not considered new development, construction or use, provided that the existing area under agricultural production is not extended further into a vegetative buffer identified under 16C.06.16, and provided that the natural contour of the land subject to this title is not altered by excavation and filling;

(f) Minor, temporary or transient activities, including those of a recreational nature, that do not alter the environment or require a dedicated staging area, use area, or route are not subject to this title, and including temporary signs (election, sale, rent, etc.);

(g) Critical Areas within the exterior boundaries of the Yakama Nation that are located within the designated Closed Areas or not under County jurisdiction as a result of the Supreme Court decision COUNTY OF YAKIMA et. al. v. CONFEDERATED TRIBES AND BANDS OF THE YAKIMA INDIAN NATION (1991) are not subject to this title;

(h) Mining, as defined by this title, that is carried out under a Washington Department of Natural Resources reclamation permit is not subject to, the geologically hazardous areas provisions of this title for erosion hazard areas, oversteepened slope hazard areas, landslide hazard areas and suspected geologic hazard areas. Other critical areas provisions continue to apply.

(2) Other rules and regulations, including the Yakima County Unified Land Development Code (YCC Title 19), Shoreline Master Program (YCC Title 16D), and the Building and Construction Ordinance (YCC Title 13), shall remain in full force and effect as they apply to a designated critical area. Wherever the requirements of Title 16C conflict with the requirements of the applicable Zoning Ordinance, the Subdivision Ordinance or any other lawfully adopted County rules or regulations, the most restrictive standards shall govern.

(3) Yakima County has opted into the Voluntary Stewardship Program (VSP), an alternative to regulatory protection of critical areas on agricultural lands. A working group comprised of agricultural groups, environmental groups, and the Yakama Nation is developing a work plan that identifies goals and benchmarks to protect critical areas while maintaining the viability of agriculture through voluntary, incentive-based measures (WAC 365-191-010(1)).

a) If the work plan developed by the VSP working group is approved by the Washington State Conservation Commission, the provisions or standards of this title will not apply to agricultural activities, defined as agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation (RCW 36.70A.703(1) and RCW 90.58.065).

b) If the work plan is not approved by the Washington State Conservation Commission, or fails to meet goals and benchmarks, the provisions and policies of the title will apply to agricultural activities (RCW 36.70A.735).

16C.01.06 Science and Protection of Anadromous Fish

This title has been updated consistent with the requirements for:

(1) Using the best available science as required by RCW 36.70A.172 (Critical areas -- Designation and protection -- Best available science to be used) and WAC 365-195-900 through WAC 365-195-920 (BAS Background and purpose);

(2) Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish (salmon, steelhead, pacific lamprey, etc.) and their habitat, as required by RCW 36.70A.172 (Best available science to be used) and WAC 365-195-925 (Criteria for demonstrating "special consideration" has been given to anadromous fisheries).

16C.01.08 Administrative Authority

1) The Yakima County Public Services Department - Planning Division shall be responsible for the general administration of this title. The Planning Division Manager or the Manager's designee shall serve as the Administrative Official of this title, except as noted in Chapters 16C.05.20 through 16C.05.72. The Administrative Official shall establish procedures for implementation of this title.

   (a) Where the provisions of these regulations may be unclear in special circumstances, or where judgment must be made because of the nature of the language used, the Administrative Official shall make such interpretations. A separate record of all interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the Administrative Official for its effect or influence on the pending action.

   (b) A written request for interpretation of any provision of this title, or any rule or regulation adopted pursuant to this title may be submitted to the Administrative Official. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. Interpretations shall be processed in accordance with YCC Title 16B.03.070.

16C.01.09 Severability

If any provision of the ordinance codified in this title, or its application to any person or legal entity or circumstances is held to be invalid, the remainder of said ordinance or the application of the provision to other persons or legal entities or circumstances shall not be affected.

Chapter 16C.02
DEFINITIONS

16C.02.001 Definitions Generally

(1) Whenever the words and terms set forth in this chapter appear in this title, they shall be given the meaning attributed to them by this chapter. References to specific provisions of YCC Title 13 and the International Building Codes, statutes and Washington Administrative Code provide greater detail for purposes of administering this title.

(2) Definitions listed in this chapter shall be applied to all critical areas, including Flood Hazard Areas, unless the definition itself identifies the term as applying to Flood Hazard administration, in which case the definition only applies to that situation.

16C.02.005 Abutting

"Abutting" means bordering upon, to touch upon, or in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

16C.02.010 Adjacent

"Adjacent" means to be nearby and not necessarily abutting.

16C.02.012 Administrative Official

"Administrative Official" means the duly appointed Planning Division Manager of the Public Services Department, or his designee, or the relevant decision maker identified in YCC Title 16B (Project Permit Administration); synonymous with "administrator" or "director."

16C.02.020 Agricultural Activities

"Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

16C.02.025 Alluvial fan

“Alluvial fan” is a low, outspread, relatively flat to gently sloping feature, shaped like an open fan or a segment of a cone, deposited by a stream at the place where it issues from a valley upon a plain or broad valley, or where a tributary stream is near or at its junction with the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

16C.02.030 Applicant

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development, construction or use on a site.

16C.02.035 Aquifer

"Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

16C.02.040 Critical Aquifer Recharge Area

"Critical Aquifer Recharge Area" means an area with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water.

16C.02.042 Bank

"Bank" means the land surface above the ordinary high water mark that abuts a body of water and contains it to the bankfull depth.

16C.02.043 Bankfull depth

"Bankfull depth" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section.

16C.02.044 Base Flood

“Base Flood” for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the flood having a one percent chance of being equaled or exceeded in any given year. (Ref. IBC 1612.2)

16C.02.045 Base Flood Elevation

“Base flood elevation” for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). (Ref. IBC1612.2)

16C.02.046 Basement

“Basement” for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 1612.2)

16C.02.055 Bed

"Bed" means the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

16C.02.060 Bedrock

"Bedrock" means in-place solid rock.

16C.02.065 Berm

"Berm" means a mound of earth material used as a protective barrier or to control the direction of water flow.

16C.02.067 Best Management Practices

"Best Management Practices" or "BMPs" means schedules of activities, practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in a combination prevent or reduce adverse impacts to the environment.

16C.02.070 Bioengineering

"Bioengineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

16C.02.075 Breakwater

"Breakwater" means a fixed or floating off-shore structure that protects the shore from wave action or currents.

16C.02.080 Bulkhead

"Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

16C.02.085 Channel

"Channel" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

16C.02.090 Channel Migration Zone

“Channel Migration Zone” is the area where the stream channel is likely to shift or migrate to over time.

16C.02.092 Chief Building Official

"Chief Building Official" or “building official” means the manager of the Building and Fire Safety Division of the Department of Public Services or designee.

16C.02.095 Classification

"Classification" means the definition of value and hazard categories to which critical areas and natural resource lands will be assigned.

16C.02.100 Clearing

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

16C.02.110 Compaction

"Compaction" means compressing soil through some mechanical means to make it denser.

16C.02.115 Confinement Feeding Operation

"Confinement feeding operation" means the use of structures or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep, or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms, but does not include animal husbandry and normal farming practices.

16C.02.120 Construction

"Construction" means the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.

16C.02.122 Critical Areas

“Critical Areas” include the following areas and ecosystems:

a) Wetlands;
b) Areas with a critical recharging effect on aquifers used for potable water;
c) Fish and wildlife habitat conservation areas;
d) Frequently flooded areas; and
e) Geologically hazardous areas.

16C.02.125 Designated

"Designated" means formal legislative action to identify and describe a critical area.

16C.02.130 Department

"Department" means the Yakima County Public Services Department, Planning Division.

16C.02.135 Development

"Development" means the division of land into lots or parcels and any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, clearing, paving, excavation or drilling operations, storage of equipment or materials, or any other activity which results in the removal of vegetation or in the alteration of natural site characteristics.

16C.02.140 Dike

"Dike" means an embankment to prevent flooding by a stream or other water body. A dike is also referred to as a levee.

16C.02.145 Dock

“Dock" means a structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

16C.02.150 Dredging

"Dredging" means removal of earth from the bed of a stream, lake, or pond for the purpose of increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a

mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations.

16C.02.160 Earth Material

"Earth material" means any rock, natural soil, or combination thereof.

16C.02.170 Enhance

"Enhance" means to strengthen any of the basic functional properties listed in Section 16C.06.05 that exist but do not perform at optimum efficiency. "Optimum" refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

16C.02.175 Ephemeral Stream

“Ephemeral stream” means a stream that flows only in response to precipitation with no groundwater association, usually less than 30 days per year. The lack of any groundwater association results in a lack of a distinctive riparian vegetation compared to the surrounding landscape.

16C.02.180 Erosion

"Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

16C.02.190 Excavation

"Excavation" means the mechanical removal of earth material.

16C.02.200 Fill

"Fill" means the addition of any material, such as (by way of illustration) earth, clay, sand, rock, gravel, concrete rubble, wood chips, bark, or waste of any kind, which is placed, stored or dumped upon the surface of the ground resulting in an increase in the natural surface elevation. The physical structure of a shore stabilization structure shall not be considered fill. However, fill placed behind the structure is considered fill. Stream bed manipulation for irrigation diversions shall not be considered fill.

16C.02.203 Fish and Wildlife Habitat Conservation Areas

"Fish and wildlife habitat conservation areas" are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. These areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. Natural watercourses such as streams and rivers that carry irrigation water are not considered part of these artificial features.

16C.02.205 Flood

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

16C.02.206 Flood Hazard Permit

"Flood hazard permit" means written approval applied for and obtained in accordance with such rules and regulations as are established under this title.

16C.02.207 Flood Insurance Rate Maps

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. Preliminary updated Flood Insurance Rate Maps are maps that have been accepted by FEMA, but are not yet effective.

16C.02.208 Flood Insurance Study

"Flood insurance study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

16C.02.209 Floods of Record

“Floods of Record” are areas identified as inundated during the flood of record, identification of areas subject to flooding, or stream systems where the path of floodwaters can be unpredictable.

16C.02.210 Floodplain

"Floodplain" means a land area adjoining a river, stream, watercourse or lake which has been determined likely to flood. The extent of the floodplain may vary with the frequency of flooding being considered. "Flood plain" is synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year.

16C.02.215 Flood-prone

"Flood-prone" means a land area for which a floodway and floodplain has not been determined with respect to any specific flood frequency, but for which the potential for flooding can be identified by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.

16C.02.216 Flood-proofing

"Flood-proofing" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to lands, water and sanitary facilities, structures and contents of buildings.

16C.02.220 Floodway

"Floodway" means the regular channel of a river, stream, or other watercourse, plus the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively

increasing the water surface elevation more than one foot.

16C.02.225 Floodway Fringe

"Floodway fringe" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means that portion of a floodplain which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

16C.02.230 Forest Land

"Forest land" means land primarily devoted to forest practices activities.

16C.02.240 Forest Practices

"Forest practices" means any activity conducted on or directly pertaining to forestland and relating to growing, harvesting, or processing timber, including but not limited to:

a) Road and trail construction, including forest practices hydraulic projects that include water crossing structures, and associated activities and maintenance;
b) Harvesting, final and intermediate;
c) Pre-commercial thinning;
d) Reforestation;
e) Fertilization;
f) Prevention and suppression of diseases and insects;
g) Salvage of trees; and
h) Brush control.

16C.02.245 Frequently Flooded Areas

“Frequently Flooded Areas” are defined by:

a) Flood Insurance Rate Maps (FIRM) from FEMA;
b) Preliminary updated FIRM maps from FEMA;
c) Floods of record;
d) Mapped channel migration zones; and
e) Flood-prone.

16C.02.250 Grade

"Grade" means the vertical location of the ground surface. "Natural grade" is the grade as it exists or may have existed in its original undisturbed condition. "Existing grade" is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification. "Rough grade" is a stage where grade conforms approximately to an approved plan. "Finish grade" is the final grade of the site which conforms to an approved plan.

16C.02.255 Grading

"Grading" means any excavation, filling, or combination thereof.

16C.02.260 Groundwater

"Groundwater" means water that occurs beneath the land surface, also called subsurface water or subterranean water. Groundwater includes water in the zone of saturation of a water-bearing formation.

16C.02.061 Hazardous Materials

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

16C.02.263 Hydrologically Related Critical Areas (HRCA)

"Hydrologically related critical areas (HRCA)" include all those areas identified in Section 16C.06.03, within Yakima County that are important and deserving of protection by nature of their value for the functional properties found in Section 16C.06.05.

16C.02.266 Hyporheic

"Hyporheic" means a groundwater area adjacent to and below channels where water is exchanged with channel water and water movement is mainly in the downstream direction.

16C.02.270 Intermittent Streams

"Intermittent stream" means a stream which flows only during certain times of the year, with inputs from precipitation and groundwater, but usually more than 30 days per year. The groundwater association generally produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

16C.02.275 Lake or pond

"Lake or pond" means any inland body of standing water. The term includes the reservoir or expanded part of a river behind a dam, but excludes a man-made body of water created for surface mining purposes.

16C.02.281 Lowest Floor

Lowest floor" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title.

16C.02.282 Manufactured Home

"Manufactured home" means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) and Yakima County Code Titles 13 and 19 separately define and distinguish between "manufactured home" and "mobile home"

according to federal or state construction codes for such dwellings, the term "manufactured home" shall include "mobile home" for regulatory purposes under this chapter. The term shall not include "recreation vehicle." "commercial coach," "camping vehicle," "travel trailer," "park trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law. For floodplain management purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and other similar vehicles shall be considered manufactured homes when placed on a site for greater than one hundred eighty days.

16C.02.283 Manufactured Home Park or Subdivision

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale in accordance with YCC Title 19.

16C.02.284 Manufactured Home Park or Subdivision, Existing

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 1, 1995, the effective date of these floodplain management regulations.

16C.02.285 Minerals

"Minerals" means gravel, sand and metallic and non-metallic substances of commercial value.

16C.02.290 Mining

"Mining" means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation (Section 16C.06.20).

16C.02.295 Native

"Native" means indigenous to or originating naturally within Yakima County.

16C.02.300 Natural Conditions

"Natural conditions" means those conditions which arise from or are found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

16C.02.302 New Construction

"New construction" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means structures for which the start of construction commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program. October 1, 1995, the effective date of the ordinance codified in Title 16A shall be used for defining the term “new construction” as it applies to all other Critical Areas requirements established under Title 16A by Ordinance 8-1995.

16C.02.303 Nonconforming Structure

"Nonconforming structure" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means a structure which was legally constructed prior to October 1, 1995, the effective date of Title 16A, but which would not be permitted as a new structure under the terms of this title because the structure is not in conformance with the applicable elevation and/or flood-proofing requirements.

16C.02.304 Nonconforming Use

"Nonconforming use" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the use of a building, structure or land which was lawfully established, existing and maintained at the effective date of provisions of this title but which, because of the application of this title to it, no longer conforms to the use or applicable elevation and/or flood-proofing requirements of this title and which would not be permitted as a new use under the terms of this title.

16C.02.305 Ordinary High Water Mark (OHWM)

"Ordinary high water mark (OHWM)" means that mark on lakes and streams which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

16C.02.310 Perennial Stream

"Perennial stream" means a stream that flows year round in normal water years. Groundwater is a source of much of the water in the channel.

16C.02.320 Project Site

"Project site" means that portion of any lot, parcel, tract, or combination thereof which encompasses all phases of the total project proposal.

16C.02.321 Qualified Professional

"A qualified professional" shall meet the following criteria:

(1) A qualified professional for wetlands must have a bachelor's degree or higher in biology, ecology, soil science, botany, or a closely related field, and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.

(2) A qualified professional for stream corridors must have a bachelor's degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years' professional experience related to the subject species/habitat type.

(3) A qualified professional for geologically hazardous areas and preparation of geo-technical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.

(4) A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.

(5) A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.

(6) A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.

(7) A qualified professional for economic studies must have a bachelor's degree or higher in economics or business administration with 5 years of professional experience. The five-year standard shall be waived for professionals with a PhD degree.
(8) A qualified professional for habitat assessments and habitat management plans must have a bachelor's degree or higher in biology and professional experience related to the subject species or habitat.
(9) Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined to be acceptable to the Administrative Official.

16C.02.322 Recreation Vehicle

"Recreation vehicle" means a vehicle which is:
(1) Built on a single chassis;
(2) Four hundred square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or permanently towable by a light-duty truck; and
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

16C.02.325 Restore

"Restore" means to re-establish the basic functional properties listed in Section 16C.06.05 that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions nor to limit flood authorities ability to make improvements necessary to alleviate flood risk, which may not allow for certain restoration activities or methods.

16C.02.330 Revetment

"Revetment" means a facing placed on a bank or bluff to protect a slope, embankment, or shore structure against erosion by wave action or currents.

16C.02.335 Riparian Areas

"Riparian areas are transitional between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence)."

16C.02.340 Riprap

"Riprap" means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour, or sloughing of a structure or embankment; also the stone used for this purpose.

16C.02.345 Scour

"Scour" means the removal of underwater material by waves and currents, especially at the base or toe of a shore stabilization structure.

16C.02.355 Shoreline

"Shoreline," as used in the title, means those water areas, the associated features, and the land areas within Yakima County that are subject to the State Shoreline Management Act, especially as defined in RCW 90.58.030 (definitions), and as further identified in Section 16D.10.03 (Shoreline Jurisdiction) of the Shoreline Master Program (YCC Title 16D).

16C.02.360 Shore Stabilization

"Shore stabilization" means the construction or modification of bulkheads, retaining walls, dikes, levies, riprap, breakwaters, jetties, groins, weirs, and other structures along the shore, for the purpose of controlling stream undercutting, stream erosion or lake shore erosion.

16C.02.362 Shrub-steppe

“Shrub-steppe” means a non-forested vegetation type consisting of one or more layers of perennial bunchgrasses and a conspicuous but discontinuous layer of shrubs (see Eastside Steppe for sites with little or no shrub cover). In areas with greater precipitation or on soils with higher moisture-holding capacity, shrub-steppe can also support a dense layer of forbs (i.e., broadleaf herbaceous flora). Shrub-steppe contains various habitat features, including diverse topography, riparian areas, and canyons. Another important component is habitat quality (i.e., degree to which a tract resembles a site potential natural community), which may be influenced by soil condition and erosion; and the distribution, coverage, and vigor of native shrubs, forbs, and grasses. Sites with less disturbed soils often have a layer of algae, mosses, or lichens.

16C.02.365 Slope

"Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

16C.02.366 Solid Waste

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, wood waste, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. Solid waste shall not include earth, clay, sand or gravel.

16C.02.367 Special Flood Hazard Areas

"Special flood hazard area" means the land in the floodplain identified by the Federal Emergency Management Agency that is subject to a one-percent or greater chance of flooding in any given year; commonly known as the 100-year floodplain.

16C.02.368 Start of Construction

"Start of construction" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means the first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. "Permanent construction" does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage, or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes

the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

16C.02.370 Stream

"Stream" means water contained within a channel, either perennial, intermittent or ephemeral. Streams include natural watercourses modified by man, for example, by stream flow manipulation, channelization, and relocation of the channel. They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses.

16C.02.380 Stream Corridor

"Stream corridor," as used in this title, means those features listed and described in Section 16C.06.03 and related appendices to this title.

16C.02.390 Structure

"Structure" means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height. The term also includes gas or liquid storage tanks when located principally above ground.

16C.02.395 Substantial Improvement

"Substantial improvement" for purposes of administering Chapters 16C.05.20 through 16C.05.72 means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either:

(1) Before the improvement or repair is started; or

(2) Before the damage occurred to a structure that has been damaged and is being restored.

For the purposes of this definition "substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The total value of all improvements to an individual structure undertaken subsequent to October 1, 1995, the effective date of Title 16A, shall be used to define "substantial improvement" for said structure. The term does not, however, include either:

(1) Any project for improvement to a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

(2) Any alteration of a structure listed on the National Register or Historic Places or a state inventory of historic places.

16C.02.400 Use

"Use" means the activity to which land or a building is devoted and for which either land or a building is or may be occupied or maintained.

16C.02.415 Vegetative Buffer or Buffer

"Vegetative buffer or Buffer" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of a stream corridor, wetland and other hydrologically related critical areas as set forth in Chapter 16C.06.05 (Functional Properties) and 16C.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not always exist due to degradation of the vegetative buffer before establishment of this title, or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

16C.02.425 Wetland

“Wetland" or "wetlands" means areas that are naturally inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

16C.02.430 Wildlife

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

16C.02.435 Wildlife Habitat

"Wildlife habitat" means areas which, because of climate, soils, vegetation, relationship to water, location and other physical properties, have been identified as of critical importance to maintenance of wildlife species.

16C.02.440 Works

"Works" means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved road, abutments, projection, excavation, channel rectification, or improvement attached to, or affixed upon, the realty.

Chapter 16C.03
APPLICATION AND REVIEW PROCEDURES

Sections:

General Provisions

16C.03.01 Critical Area Development Authorization Required

(1) No new development, construction or use shall occur within a designated critical area without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in Section 16C.03.05 (Minor Activities Allowed Without a Permit).

(2) With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within a designated critical area shall be processed according to the provisions of this chapter and the Project Permit Administration Ordinance (YCC Title 16B).

(3) Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by Yakima County. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.

(4) Permits issued in accordance with this title shall run with the land and conveyed to the applicant, their grantees, and assignees.

(5) Coordination with Other Jurisdictions.

(a) Where all or a portion of a standard development project site is within a designated critical area and the project is subject to another local, state or federal development permit or authorization, then the Administrative Official shall determine whether the provisions of this title can be processed in conjunction with, and as part of, that local, state or federal development permit or authorization, or whether a separate critical area development authorization application and review process is necessary. The decision of the Administrative Official shall be based upon the following criteria:

i) The nature and scope of the project and the critical area features involved or potentially impacted;

ii) The purpose or objective of the permit or authorization and its relationship to protection of the critical area;

iii) The feasibility of coordinating the critical area development authorization with the permitting agency;

iv) The timing of the permit or authorization.

(b) When a determination has been made that provisions of this title can be handled through another applicable development permit or authorization process, project proponents will be required to provide any additional site plans, data and other information necessary as part of that process to fully evaluate the critical area project and ensure its compliance with this title. The Administrative Official's decision on the critical area development authorization shall be coordinated to coincide with other permits and authorizations.

Inquiry and Early Assistance

16C.03.02 Critical Area Identification Form and Critical Area Report Requirements.

(1) Prior to the review or consideration of any proposed development, construction or use, except those provided under Applicability (16C.01.05), and Minor Activities Allowed Without a Permit (16C.03.05), the County shall consider available information to determine if a critical area is likely to be present. The presence of a critical area found on the paper and electronic

maps within or adjacent to the property proposed for development is sufficient foundation for the Administrative Official to require preparation of a critical area identification form, provided by the department, and a preliminary site plan. This critical area identification form and preliminary site plan may be one piece of information used to analyze how a critical area could be affected by a development proposal. To the extent possible, all critical area features must be identified on the critical area identification form and shown on the preliminary site plan prior to the Administrative Official determining whether the development is subject to this title.

(2) Upon receipt of a critical area identification form and site plan, the Administrative Official will typically conduct a site examination to review critical area conditions on site. The Administrative Official shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner for the site examination during any proposal review, restoration, emergency action, or monitoring period.

(3) The Administrative Official shall review available information pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal. If so, a more detailed critical area report shall be submitted in conformance with Section 16C.03.17 (Critical Areas Reports) and Section 16C.03.18 (Supplemental Report Requirements for Specific Critical Areas), except as provided below:

(a) **No critical areas present**. If the Administrative Official is able to sufficiently determine that a critical area does not exist within or adjacent to the project area, then a critical area report is not required;

(b) **Critical areas present, but no impact**. If the Administrative Official is able to determine the existence, location and type of critical area sufficiently to indicate that the project area is not within or adjacent to the critical area and that the proposed activity is unlikely to degrade the functions or values of the critical area, then the Administrative Official may waive the requirement for a critical area report. A summary of the determination shall be included in any staff report or decision on the permit or review;

(c) **Critical areas may be affected by proposal**. If the project area is within or adjacent to a critical area or buffer the Administrative Official may waive the requirement for a critical areas report if:

i) The Administrative Official is sufficiently able to determine the existence, location and type of the critical area;

ii) The project is of a small scale or is uncomplicated in nature, such that a specialist is not needed to identify impacts and mitigation. Work within a wetland, stream channel, or a vegetative buffer would generally not meet this provision;

iii) The applicant agrees to provide mitigation that the Administrative Official deems adequate, with consultation from resource agencies, to mitigate for anticipated impacts. Restoration of degraded areas may serve as mitigation; and,

iv) A summary of the determination shall be included in any staff report or decision on the permit or review.

(d) If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

(e) As guidance on the practical application of the requirement for critical areas reports, reports will generally fall into the following groups based on increasing complexity and cost of the report:

i) Determining the absence of a critical area (sometimes resulting when initial indicators show the likely presence of a critical area);
ii) Determining the existence, location and type of a critical area;
iii) Determining impacts of an encroachment on a critical area and general mitigation measures;
iv) Developing a compensatory mitigation plan for replacement or mitigation of lost wetland or stream channel area.

16C.03.03 Pre-application Conference

Any new development, construction or use falling under the provisions of this title shall be subject to a pre-application conference, except that project review for flood hazards shall follow the pre-application requirements established to administer Chapters 16C.05.20 through 16C.05.72 (Flood Hazard Areas). The department shall schedule a pre-application conference for as soon as is reasonably possible to allow attendance by the project proponent and necessary staff. To assist in project review and discussion, prior to the pre-application conference, the project proponent must submit a preliminary site plan showing the nature and scope of the proposed project along with any existing features of the property having a relationship to the project. The pre-application conference is intended to allow the Administrative Official to:

(1) Establish the scope of the project and the critical area features involved or potentially impacted;
(2) Consider the degree to which the project may affect or impair a designated critical area and identify potential concerns that may arise;
(3) Identify other permits and authorizations which the project proponent may need to obtain;
(4) Determine whether the project will be processed through the development authorization procedures of this title or coordinated through the review and approval procedures of another development permit or authorization required of the project from Yakima County;
(5) Provide the proponent with resources and technical assistance (such as maps, scientific information, other source materials, etc.) to assist the proponent in meeting the provisions of this title and any applicable rules and regulations of other agencies and jurisdictions;
(6) Determine whether there is a need for a preliminary site assessment or a technical assistance conference to better define the critical area issues and alternatives;
(7) Determine whether the project requires a permit, and what type of permits or reviews may be needed. Final determination of necessary permits will be made based on the project design and submittal materials;
(8) Consider whether a preliminary site assessment should be scheduled in the field to determine the applicability of the development standards of this title to the project, based on information contained in the preliminary site plan.

16C.03.04 Technical Assistance Conference

If requested by the project proponent or otherwise determined necessary, the department will arrange a meeting of representatives of those agencies and organizations with expertise, interest, or jurisdiction in the project. In conjunction with the invitation to attend the technical assistance conference, the department will provide the potential participants with a project summary compiled from the pre-application conference. The technical assistance conference may also involve a preliminary site assessment, if it is determined that resolution of issues related to the project can be achieved through an on-site review. The purpose of the technical assistance conference will be to:

(1) Confirm and define the requirements of any other applicable local, state or federal regulations;
(2) Clarify any identified procedural or regulatory conflicts and define the alternative courses of action available to the applicant in addressing project requirements;
(3) Determine whether compliance with other existing statutes and regulations will adequately address the provisions of this title;
(4) Provide the proponent with guidance, available data and information that will assist in complying with the provisions of this title and other ordinances and regulations;
(5) Provide the proponent with guidance concerning project modifications or site enhancements that would eliminate or minimize impacts to the critical area;
(6) Provide the proponent with alternatives for securing data, information, or assistance necessary to the project but not available through the pre-application conference;
(7) Determine whether a critical area report is necessary, and if so, the qualifications, skills and expertise required of a consultant to perform the special study.

Abbreviated Review Alternatives

16C.03.05 Minor Activities Allowed without a Permit.

(1) The following activities are included under 16C.01.05(1) (Applicability) and are allowed without a permit:
   (a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffer. Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls, are not covered in this provision and are subject to review;
   (b) Minor maintenance and/or repair of lawfully established structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing replacement, re-roofing, etc. Maintaining canals, ditches, drains, wasteways, etc. without expanding their original configuration is not considered additional earthwork. Repair of levees operated by the Yakima County Flood Control Zone District, as long as the original dimensions and location are maintained, is not considered additional earthwork. All cleared materials shall be placed outside the stream corridor, wetlands, and buffers;
   (c) Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education or scientific research;
   (d) Creation of unimproved private trails that do not cross streams or wetlands that are less than two (2) feet wide and do not involve placement of fill or grubbing of vegetation;
   (e) Planting of native vegetation;
   (f) Noxious weed control outside vegetative buffers identified in Chapter 16C.06.16, except for area wide vegetation removal/grubbing;
   (g) Noxious weed control within vegetative buffers, if the criteria listed below are met. Control methods not meeting these criteria may still apply for a development authorization as applicable:
      i) Hand removal/spraying of individual plants only;
      ii) No area wide vegetation removal/grubbing.

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

(i) The restoration of critical areas for habitat restoration projects that do not include excavation or fill.

16C.03.10 Mitigation requirements

(1) All developments shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:
   (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
   (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
   (c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
   (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
   (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
   (f) Monitoring the impact and taking appropriate corrective measures.

(2) Mitigation for individual actions may include a combination of the above measures.

(3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved Mitigation Plan. Mitigation shall not be implemented until after approval of the Mitigation Plan.

(4) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. When necessary, mitigation may be provided that is out-of-kind and/or off-site.

Review Process

16C.03.11 Application Submittal

(1) Application for a development authorization under this title shall be made on forms provided by the Department. The application submittal shall include a site plan drawn to scale showing:
   (a) the actual shape and dimensions of the property site to be used;
   (b) existing and proposed structures;
   (c) excavation, fill, drainage facilities, topography, slope, and;
   (d) such other information as is needed to determine the nature and scope of the proposed development, including the maximum extent of the project site with respect to construction, excavation, equipment and material storage, and other project related work.

(2) The site plan should also show the location of all critical areas, such as those identified in Sections 16C.03.02 (Critical Areas Identification Form and Critical Areas Reports) and 16C.03.17 (Critical Areas Report Requirements), include all required critical areas reports prepared in conformance with 16C.03.17, and include the permit information required either in YCC Title 16B (Project Permit Administration) or in Chapter 16C.05.44 (Flood Hazard Protection Administration), as appropriate.

(3) To be accepted as complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this title or requested on the basis of the pre-application conference (16C.03.03), or technical assistance conference (16C.03.04).

16C.03.12 Determination of Review Process

(1) The Administrative Official shall determine from the application submittal, and other available information what type of permit or review is required under this title. The Administrative Official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing of any application needs. Available information used in this determination may include:
   (a) critical areas identification form;
   (b) pre-application conference information;
   (c) technical assistance conference information.

(2) Specific information on when a permit or review is required, its review process type and review criteria are found in the section for each permit or review. However, a brief description of each type of permit or review is provided in Table 3-1 below. Some permits or reviews are general and all projects will have a general review. Some permits are more specialized and apply only in specific cases or situations. More than one permit or review may be needed for a project.

Table 3-1

General Permits or Reviews
Standard Development. Standard development projects include any development not subject to RCW Chapter 90.58, the Shoreline Management Act.
Specific Permits
Adjustment. Administrative Adjustments are used outside Shoreline jurisdiction when a project needs to reduce or adjust a development standard.
Non-conforming Use or Facility Alteration. Non-conforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.
Minor revisions to an Existing Permit. Minor Revisions to an Existing Permit allow simplified review of certain changes to a project that has previously received a permit.
Reasonable Use Exceptions. Reasonable Use Exceptions provide an alternative to landowners when all reasonable use of a property has been prohibited.
Flood Hazard Permit. A Flood Hazard Permit is required for activities within floodplains. It is different in that it has special administrative provisions, and may include many of the specific permit types noted above within it, which are described in Chapters 16C.05.20 through 16C.05.72. It is focused mainly on construction methods, but may include site design to minimize impacts to adjacent properties or resources, or to locate the proposed development in areas where depth and velocity of floodwaters during the base flood do not exceed the current standards for construction of human occupied structures or safe access.

16C.03.13 Development Authorization – Review Procedure

Upon submittal and acceptance of a completed development authorization application, the Administrative Official shall process and review the application as follows, except that permits or reviews required for critical areas under Chapters 16C.05.20 through 16C.05.72 (Flood Hazard)

shall be processed using the permit development standards, approval criteria and other provisions established in Chapters 16C.05.20 through 16C.05.72.

(1) Development authorizations shall be processed consistent with review procedures provided in YCC Title 16B (Project Permit Administration), and with any specific processes requirements provided in 16C.03.20 through 16C.03.26 (specific permit descriptions), including but not limited to:
    (a) submittals;
    (b) completeness review;
    (c) notices;
    (d) hearings;
    (e) decisions; and,
    (f) appeals.

(2) Development authorizations shall be reviewed for conformance with the applicable development standards provided in 16C.03.27 (General Critical Areas Protection Measures), and in Chapters 16C.06 through 16C.09, except that:
    (a) For rangeland livestock grazing operations, the Administrative Official may waive compliance with development standards in Chapters 16C.06 (Fish and Wildlife Habitat and the Stream Corridor), 16C.07 (Wetlands), 16C.08 (Geologically Hazardous Areas), and 16C.09 (CARA), except for those uses and activities listed in Section 16C.06.10 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be provided that has been prepared using all applicable US Department of Agriculture - National Resource Conservation Service best management practices designed to protect streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing operations. An acceptable Resource Management Plan is deemed to consist of acceptable critical areas protection measures capable of dealing with impacts of grazing activities dispersed across large areas. This provision is not intended to apply to pasture grazing, hobby farms, or confinement feeding operations.

(3) Decisions on a development authorization shall be consistent with Section 16C.03.14 (Authorization Decisions – Basis for Action), 16C.03.15 (Conditional Approval of Development Authorization) and with any specific decision criteria provided under the sections for each relevant permit type, as provided in 16C.03.20 through 16C.03.26 (specific permit descriptions).

16C.03.14 Authorization Decisions – Basis for Action

The action on any development authorization under this title shall be based upon the following criteria:

(1) Impact of the project to critical area features on the property or on abutting or adjacent properties;
(2) Danger to life and property that would likely occur as a result of the project;
(3) Compatibility of the project with the critical area features on, adjacent to, or near the property;
(4) Conformance with the applicable development standards in this title;
(5) Requirements of other applicable local, state or federal permits or authorizations, including compliance with flood hazard mitigation requirements of Chapters 16C.05.20 through 16C.05.72;
(6) Adequacy of the information provided by the applicant or available to the department;
(7) Ability of the project to satisfy the purpose and intent of this title;

(8) Based upon the project evaluation, the decision maker shall take one of the following actions:
    (a) Grant the development authorization;
    (b) Grant the development authorization with conditions, as provided in 16C.03.15 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or adjacent to the project site;
    (c) Deny the development authorization.
(9) The decision by the Administrative Official on the development authorization shall include written findings and conclusions stating the reasons upon which the decision is based.

16C.03.15 Conditional Approval of Development Authorization

In granting any development authorization, the decision maker may impose conditions to:
(1) Accomplish the purpose and intent of this title;
(2) Eliminate or mitigate any identified specific or general negative impacts of the project on the critical area;
(3) Restore important resource features that have been degraded or lost because of past or present activities on the project site;
(4) Protect designated critical areas from damaging and incompatible development;
(5) Ensure compliance with specific development standards in this title.

16C.03.16 Fees and Charges

The board of county commissioners establishes the schedule of fees and charges listed in Yakima County Code, Title 20 (Yakima County Fee Schedule), for development authorizations, adjustments, appeals and other matters pertaining to this title.

Critical Areas Reports

16C.03.17 Critical Areas Report Requirements

(1) The Administrative Official may require a critical areas report, paid for by the applicant in accordance with YCC Title 16B.04, where determined necessary through the critical area identification form, technical assistance conference, site investigation, or other portion of the project review.
(2) A qualified professional, as defined by this title, shall prepare the report utilizing best available science. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.
(3) The critical area report shall:
    (a) Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this title;
    (b) Describe all relevant aspects of the development proposal; all critical areas adversely affected by the proposal including any geologic or flood hazards; all risks to critical areas, the site, and other public and private properties and facilities resulting from the proposal; and assess impacts on the critical area from activities and uses proposed; and
    (c) Identify proposed mitigation and protective measures as required by this title.
(4) The critical areas report shall include information to address the Supplemental Report Requirements for Specific Critical Areas (16C.03.18).

(5) The Administrative Official shall review the critical areas report for completeness and accuracy, and shall consider the recommendations and conclusions of the critical areas report to assist in making decisions on development authorizations and to resolve issues concerning critical areas jurisdiction, appropriate mitigation, and protective measures.

(6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be demonstrated to the satisfaction of the Administrative Official that the previously prepared report is adequate for current analysis. Future land use applications may require preparation of new, amended, or supplemental critical area assessment reports. Reports prepared for nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if relevant to the current analysis and meeting the above standards. The Administrative Official may also require the preparation of a new critical area assessment report or a supplemental report when new information is found demonstrating that the initial assessment is in error. If the Administrative Official requires more information in the report, he/she shall make the request in writing to the applicant stating what additional information is needed and why.

(7) The Administrative Official may reject or request revision of the critical areas report when the Administrative Official can demonstrate that the assessment is incomplete, or does not fully address the critical areas impacts involved.

(8) To avoid duplication, the reporting requirements of this chapter shall be coordinated if more than one critical area report is required for a site or development proposal.

(9) Applicants should provide reports and maps to the County in an electronic format that allows site data to be incorporated into the County critical areas database, provided that the County may waive this requirement for single-family developments. Applicants are encouraged to coordinate with the Administrative Official regarding electronic submittal guidelines. This requirement shall not be construed as a requirement to use specific computer software.

(10) At a minimum, a critical areas report shall include the following information:

(a) A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and buffers within and abutting the site, including but not limited to effects related to clearing, grading, noise, light/glare, modification of surface or subsurface flow, drilling, damming, draining, creating impervious surface, managing stormwater, releasing hazardous materials, and other alterations. Projects in frequently flooded areas must comply with the requirements of Section 16C.05.20 through 16C.05.72. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the report shall identify the type of hazard and assess the associated risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;

(b) A written description of the critical areas and buffers on or abutting the site, including their size, type, classification or rating, condition, disturbance history, and functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the description shall identify the type and characteristics of the hazard;

(c) An analysis of potential adverse critical area impacts associated with the proposed activity. For geologically hazard areas, also assess the risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;

(d) An explanation of how critical area impacts or risks will be avoided and/or minimized, how proposed mitigation measures will prevent or minimize hazards, why the proposed activity requires a location on or access across a critical area, the on-site design alternatives, and why alternatives are not feasible;
(e) When impacts cannot be avoided, the report shall include a plan describing mitigation to replace critical area functions and values altered as a result of the proposal, or to reduce flood or geologic hazards to critical areas, the site, and other public and private properties. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the plan shall address mitigation for impacts to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
(f) The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
(g) Additional reasonable information requested by the Administrative Official for the assessment of critical areas impacts or otherwise required by the subsequent articles of this title.

(11) A critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Administrative Official.

(12) The Administrative Official may limit the required geographic area of the critical area report as appropriate.

(13) Compensatory Mitigation Plans - When compensatory mitigation, as described in Section 16C.03.10 (Mitigation Requirements) is required or proposed for wetland areas, stream channels, or upland habitat areas, the applicant shall submit for approval by Yakima County a mitigation plan as part of the critical area report, which includes:
(a) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the proposed compensation including:
i) A description of the anticipated impacts to the critical areas, mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals and objectives, identification of desired resource functions, dates for beginning and completion of site compensation construction activities, and an analysis of the likelihood of success of the compensation project. The goals and objectives shall be related to the functions and values of the impacted critical area.
(b) A review of the best available science supporting the proposed mitigation;
(c) A description of the report author's experience to date in restoring or creating the type of critical area proposed;
(d) Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained;
(e) Detailed Construction Documents. The mitigation documents shall include written specifications and plans describing the mitigation proposed, such as:
i) The proposed construction sequence, timing, and duration;
ii) Grading and excavation details;
iii) Erosion and sediment control features;

iv) A planting plan specifying plant species, quantities, locations, size, spacing, and density;
v) Measures to protect and maintain plants until established, and;
vi) Documents should include scale drawings showing necessary information to convey both existing and proposed topographic data, slope, elevations, plants and project limits.

(f) Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

(g) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

(h) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with Section 16C.03.27(1) (Financial Guarantees).

(14) Innovative Mitigation.

(a) Yakima County encourages innovative mitigation projects that are based on the best available science. The mitigation plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

i) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
iii) The group demonstrates that long-term management of the habitat area will be provided;
iv) There is a clear potential for success of the proposed mitigation at the identified mitigation site;
v) There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;
vi) The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel-by parcel regulations and/or traditional mitigation approaches;
vii) The plan is consistent with the general purpose and intent of this chapter;

viii) The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and

ix) The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.

(b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required wetland replacement ratios.

(c) Projects that propose compensatory wetland mitigation shall also use the standards in Section 16C.07.05 (Compensatory Mitigation Requirements). For those situations where a mitigation bank may provide an opportunity for mitigation, then the requirements in Section 16C.07.06 (Wetland Mitigation Banks) shall apply.

16C.03.18 Supplemental Report Requirements for Specific Critical Areas

(1) **Stream Corridors.** When a critical areas report is required for a stream corridor or hydrologically related critical area, it shall include the following:

(a) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance the functional properties listed in Section 16C.06.05 (Functional Properties);

(b) Where there is evidence that proposed construction lies within an immediate zone of potential channel migration, representing a future hazard to the construction, a hydrologic analysis report may be required. The report shall assume the conditions of the one-hundred-year flood, include on-site investigative findings, and consider historical meander characteristics in addition to other pertinent facts and data.

(2) **Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat Conservation Areas, it shall include the following:

(a) Habitat Assessment: A habitat assessment is an investigation of the project area to evaluate the presence or absence of such species, and habitat types with which such species have a primary association. The presence or absence assessment shall incorporate the time sensitive nature of species use. The landowner may submit an assessment prepared by the state or federal agency with jurisdiction over the species. This assessment is time sensitive and the assessment must be completed no more than 36 months prior to the date the critical areas application is deemed complete.

(b) If the habitat assessment determines that such habitat area is present on site, a management plan is required that follows published federal, or state, management recommendations. The Administrative Official shall confer with the appropriate agency and consider their comments through the review process.

(3) **Wetlands** When a critical areas report is required for Wetlands, it shall include the following:

(a) The exact location of a wetland's boundary and wetland rating shall be determined through the performance of a field investigation by a qualified wetland professional applying the 1987 *Corps of Engineers Wetlands Delineation Manual* – (http://www.ecy.wa.gov/programs/sea/wetlands/pdf/corps87manual.pdf) as required by RCW 36.70A.175 (Wetlands to be delineated in accordance with manual), *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)* (http://www.ecy.wa.gov/programs/sea/wetlands/pdf/AridWest_Sept2008.pdf), and

Western Mountains, Valleys, and Coast Region (Version 2.0) (http://www.ecy.wa.gov/programs/sea/wetlands/pdf/WestMt_May2010.pdf), and the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication # 14-06-030 - https://fortress.wa.gov/ecy/publications/SummaryPages/1406030.html), as amended;

(b) All delineated wetlands and required buffers within two hundred (200) feet of the project area shall be depicted on the site plan. For areas off-site of the project site, wetland conditions within 200 feet of the project boundaries may be estimated using the best available information. Best available information should include, but not be limited to aerial photos, land based photos, soils maps, or topographic maps;

(c) A critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information:

i) A statement specifying all assumptions made and relied upon;

ii) Documentation of any fieldwork performed on the site, including field data sheets for delineations, the wetland rating form, baseline hydrologic data, etc.;

iii) A description of the methodologies used to conduct the wetland delineations, or impact analyses including references;

iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;

(d) For projects that will affect the wetland or it's buffer, provide the following:

i) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions and values listed in Section 16C.07.04(1) (Wetland Functions and Rating), and Section 16C.06.05 (Functional Properties);

ii) Mitigation sequencing pursuant to Section 16C.03.10 (Mitigation Requirements) to avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of wetland functions and values. Mitigation ratios may be necessary and should follow the guidance provided in Section 16C.07.05 (Compensatory Mitigation) of the wetland chapter.

(4) **Geologically Hazardous Areas** When a critical areas report is required for a Geologically Hazardous Area, it shall include the following, provided that the Administrative Official may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

(a) A description of the site features, including surface and subsurface geology. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;

(b) A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any Suspected and Risk Unknown hazards identified in the affirmative determination of hazard (16C.08.04);

(c) A description of the vulnerability of the site to seismic and other geologic processes and hazards;

(d) A description of any potential hazards that could be created or exacerbated as a result of site development;

(e) For developments in or affecting landslide hazard areas the report shall also include:

i) Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip,

etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the YCC Title 13 (Building Code);

ii) An analysis of slope recession rate shall be presented in those cases where stability is impacted or influenced by stream meandering, or other forces acting on the toe of the slope;

iii) Description of the run-out hazard of landslide debris to the proposed development that starts up-slope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down-slope properties and critical areas.

(5) **Flood Hazards**

(a) Prior to authorization of any major construction project within a floodplain which can be anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the base flood, an engineering report shall be prepared that establishes any new flood elevations that would result for the one-hundred-year flood frequency if the project were implemented.

6) **Critical Aquifer Recharge Areas**

When a hydrogeological report is required for CARAs, it shall include the following:

a) The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer.

b) The hydrogeologic report shall be prepared by a hydrogeologist licensed in the state of Washington.

c) The report shall contain recommendations on appropriate BMPs (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality.

Permit Review Criteria

16C.03.20 Standard Development Permit

(1) **Classification Criteria** – Standard Development permits include any development not subject to RCW Chapter 90.58 (Shoreline Management Act).

(2) **Process** Standard Development permits shall be processed as either a Type I or II permit at the judgment of the Administrative Official, in accordance with YCC Title 16B (Project Permit Administration). Applications that are of a significant size or scope shall be processed as a Type II review with public notice. Examples of such projects include those that typically require environmental review (SEPA), filling or excavating a stream channel or wetlands, involve large amounts of fill, require large amounts of parking, etc.

(3) **Decision Criteria** – Decisions on Standard Development permits shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action).

16C.03.23 Adjustment

(1) **Classification Criteria** – For projects not required to be processed under RCW Chapter 90.58 (Shoreline Management Act), the Administrative Official is authorized to administratively adjust the development standards specified herein. Existing structures, parcel size, property boundaries, and other constraints may preclude conformance with building setbacks, vegetative buffers, and other provisions of this chapter. Given such constraints, administrative adjustments may be authorized where the site plan and project design include measures which

ensure the protection and performance of the functional properties identified in Section 16C.06.05 (Functional Properties). Adjustments from prohibited use limits are not allowed.

(2) **Process** – Requests for an Adjustment permit shall be processed as a Type II permit, in accordance with YCC Title 16B (Project Permit Administration). Requests for adjustments of development standards shall be made in writing and shall specify the standard(s) for which an adjustment is sought and the reasons why the adjustment is sought.

(3) **Decision Criteria** - Decisions on Adjustment permits shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.

(a) A particular standard may be reduced or modified as long as the Administrative Official determines that the adjustment and/or reduction:

i) is consistent with the purpose of this title;

ii) is consistent with the intent of the standard; and,

iii) will not result in degradation of the critical area.

(b) The Administrative Official shall consider the following:

i) The proximity and relationship of the project to any critical area and its impact on the critical area;

ii) The functions and values that the critical area performs;

iii) The overall intensity of the proposed use;

iv) The presence of threatened, endangered, or sensitive species;

v) The site's susceptibility to severe erosion;

vi) The use of a buffer averaging or buffer enhancement plan by the applicant which uses native vegetation or other measures which will enhance the functions and values of the Hydrologically Related Critical Area (HRCA).

(c) When granting an adjustment to the provisions of this chapter, the Administrative Official may require alternative measures to be taken to protect the function and value of the HRCA. These alternative measures may include, but are not limited to, the following:

i) Restoration of impaired channels and banks to conditions which support natural stream flows, fish habitat, and other values;

ii) Restoration, enhancement, and preservation of soil characteristics and the quantity and variety of native vegetation;

iii) Provisions for erosion control and for the reduction and filtration of stormwater runoff to moderate the effects of the project on the stream channel and the available area of vegetation separating the project from the stream channel;

iv) Removal or alteration of existing manmade facilities associated with stream channels, or drainage ways which improve stream-flow characteristics or improve the movement or exchange of surface waters or floodwaters;

v) Replacement of lost wetlands or other stream corridor features on an acre-for-acre and equivalent value or at a higher acre and/or value basis;

vi) Conservation easements for key portions of stream corridor property and/or their inclusion within public or private conservation programs which provide for their long-term preservation and maintenance.

vii) Vegetative Buffer Averaging. Vegetative buffers may be modified by averaging buffer widths. Buffer averaging is preferred in the use of mitigation sequencing (16C.03.10 Mitigation Requirements), over a reduction in the buffer standards.

(d) The following criteria must be met to reduce the vegetative buffers found in tables 6-1 and 6-2.
  i) There is a hardship related to maintenance of the buffer width that results from parcel boundaries or existing on-site development.
  ii) The buffer width shall be the maximum possible while meeting the minimum needs of the proposal.
  iii) The development will not result in a reduction of habitat functions and values.
  iv) The buffer reduction will not adversely affect salmonid habitat.

16C.03.24 Reasonable Use Exception

(1) **Classification Criteria** - If the application of this title would deny all reasonable economic use of the subject property, the property owner may apply for a Reasonable Use Exception pursuant to this section.

(2) **Process** - A Reasonable Use Exception shall be processed as a Type III review with a public hearing in accordance with YCC Title 16B.03 (Classification by Project Permit Type).

(3) **Decision Criteria** - Decisions on the Reasonable Use request shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action), together with the criteria below. The Reasonable Use request shall be accompanied by the evidence necessary to demonstrate conformance with the criteria below. Failure to satisfy any one of the criteria shall result in denial of the request. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.
  (a) The application of this title would deny all reasonable use of the property; provided that the inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant;
  (b) No other reasonable use of the property has less impact on the critical area;
  (c) Any alteration is the minimum necessary to allow for reasonable use of the property.

16C.03.25 Minor Revisions to Approved Uses or Developments

(1) **Classification Criteria** – Minor revisions to a project that has been approved under a permit are allowed in certain circumstances.
  (a) Changes that are not substantive are not required to obtain a revision and may be allowed as activities to implement the original permit. Examples of such include minor changes in facility orientation or location, minor changes in structural design that does not change the height or increase ground floor area, and minor accessory structures (such as equipment covers or small sheds near the main structure, etc.).
  (b) Substantive changes are those that materially alter the project in a manner that relates to its conformance with the permit requirements. Such changes may be approved as a minor revision, if the Administrative Official determines that the proposed revision and all previous revisions are within the scope and intent of the original permit, and meet the criteria listed below. Changes not able to meet the criteria must obtain a new permit.
    i) No additional over water construction will be involved, except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;
    ii) Lot coverage and height may be increased a maximum of ten percent from the provisions of the original permit: PROVIDED, that revisions involving new structures

not shown on the original site plan shall require a new permit, and: PROVIDED FURTHER, that any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of these regulations;

iii) Landscaping may be added to a project without necessitating an application for a new permit: PROVIDED, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with this title for the area in which the project is located;

iv) The use authorized pursuant to the original permit is not changed;

v) No additional significant adverse environmental impact will be caused by the project revision.

(2) **Process** – Minor revisions to existing permits shall be processed as a Type I review, as provided under YCC Title 16B (Project Permit Administration). Parties of record to the original permit shall be notified of the revision, though a comment period is not required.

(3) **Decision Criteria** - Decisions on permit revisions shall be based on the general decision criteria found in Section 16C.03.14 (Authorization Decisions – Basis for Action).

16C.03.26 Non-Conforming Uses and Facilities

Non-Conforming Uses and Facilities are classified as either conforming uses with non-conforming structures or areas, or as non-conforming uses, as described in subsection 1 below. Both types have different review processes and decision criteria, as provided below in subsections 2 and 3.

(1) **Classification Criteria** – There may be situations that do not conform to the standards or regulations of this title. These situations are characterized as:

(a) **Non-conforming Uses**. Uses of a structure or land that were lawfully established at the time of their initiation but are currently prohibited by this title are non-conforming uses, and may utilize structures or land areas that are also non-conforming. A non-conforming use that is discontinued for any reason for more than one year shall have a presumption of intent to abandon, shall not be re-established, and shall lose its non-conforming status, unless an Adjustment (16C.03.23) is obtained to extend the length of time, based on documentation showing that an intent to abandon did not exist during the period of discontinuance. An Adjustment request may be submitted after the deadline has passed. In the case of destruction or damage where reconstruction costs exceed 50% of the assessed value, the structure shall not be rebuilt;

(b) **Conforming Uses with Non-Conforming Structures or Areas** are structures or areas for conforming uses that were lawfully established at the time of their initiation, but currently do not conform to the bulk, dimensional or other development standards of this title. Structures or areas in locations approved under a permit shall not be considered non-conforming. Non-conforming outdoor areas that have not been used or maintained for 5 consecutive years shall lose their non-conforming status and may not be reestablished;

(c) Any non-conforming structure, area, or use may be maintained with ordinary care according to the provisions in 16C.01.05 (Applicability) and 16C.03.05 (Minor Activities Allowed without a Permit), and do not require additional review under these non-conforming provisions.

(2) **Process**

(a) Alterations to conforming uses with non-conforming structures or areas shall be allowed under the following process requirements with the understanding that other permits or reviews may also be required under this title:

i) Those that do not increase the existing non-conformity and otherwise conform to all other provisions of this title are allowed without additional review under these non-conforming provisions;

ii) Those that increase the non-conformity, including establishing additional square footage within a buffer, are allowed without additional review under these non-conforming provisions; however, a Critical Areas Adjustment Permit must be obtained for the increased non-conformity;

iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value shall be processed as provided in subsections i) and ii) above;

iv) A nonconforming structure which is moved any distance shall be processed as provided in subsections 1 and 2 above;

v) Reconstruction or repair of structures destroyed or damaged 75% or more of the assessed value of the structure (not the whole property), including that resulting from neglect of maintenance or repair, shall be processed under these non-conforming provisions as a Type II review under YCC Title16B (Project Permit Administration).

(b) **Alterations to Non-Conforming Uses**

i) Those involving expansion or alteration within an existing structure, but do not include alterations to outdoor areas, or expansions of the building's height or square footage are allowed without additional review under these non-conforming provisions.

ii) Alterations to non-conforming uses, including their non-conforming structures or areas that do not qualify under paragraph i) above, shall be processed under these non-conforming provisions as a Type II review, as provided under YCC Title 16B (Project Permit Administration).

(3) **Decision Criteria**

(a) Decisions on projects that require review under the non-conforming provisions, as identified under subsection (1) above shall be based on the general decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.

(b) Applications for conforming uses with non-conforming structures or areas that are subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that the project meets all of the following criteria:

i) Using the original location will not place the structure or people in danger of a hazard;

ii) The previous structure and any structural shore modification used to protect the structure did not increase hazards or damage to other properties;

iii) The previous structure and any shore modification used to protect the structure did not cause significant impacts to the functions and values of the critical area.

(c) Decisions on non-conforming uses:

i) A non-conforming use may not be altered or expanded in any manner that would bring that use into greater non-conformity.

16C.03.27 General Critical Areas Protective Measures

The standards below apply to all permits and reviews performed under this title.

(1) Financial guarantees to ensure mitigation, maintenance, and monitoring.

(a) When mitigation required pursuant to a development proposal is not completed prior to the Yakima County's final permit approval, such as final plat approval or final building inspection, the Administrative Official may require the applicant to post a financial guarantee to ensure that the work will be completed. If the development proposal is subject

to compensatory mitigation for wetlands and streams, the applicant must post a financial guarantee to ensure mitigation is fully functional. Where financial guarantees are required by other state or federal agencies for specific mitigation features, additional financial guarantees for those features are not required under this provision.

(b) The financial guarantee shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.

(c) The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the Administrative Official, with terms and conditions acceptable to the Yakima County attorney.

(d) The financial guarantee shall remain in effect until the Administrative Official determines, in writing, that the standards bonded for have been met. Financial guarantees for wetland or stream compensatory mitigation shall be held for a minimum of five years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

(e) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

(f) Any failure to satisfy critical area requirements established by law or condition, including but not limited to the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan, shall constitute a default, and the Administrative Official may demand payment of any financial guarantees or require other action authorized by the Yakima County code or any other law.

(g) Any funds recovered pursuant to this section shall be used to complete the required mitigation. Such funds shall not be deposited in the County General Fund, but rather provided with a separate account. The County will use such funds to arrange for completion of the project or mitigation, and follow-up corrective actions.

(h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

(2) Declarative Covenants

(a) When a development is authorized by a critical areas permit or review, a declarative covenant shall, unless determined not to be necessary by the Administrative Official, be filed with the Yakima County Auditor to inform future owners of the existence of a critical areas decision that runs with the land and contains limits relating to critical areas on the property. The declarative covenant shall read substantially as follows:

> "This declarative covenant is intended to reduce the incidence of unintentional violation of the Critical Areas Ordinance. Please be informed about your property and the laws that apply to it.
>
> This declarative covenant is provided by Yakima County to the current and future owners of the property described as [enter property description] to inform them that, at the time of this notice, [enter Critical Areas present] existed within or adjacent to the property which are protected and regulated by the Yakima County Critical Areas

Ordinance (YCC Title 16C). Development has taken place on the property under permit or review number [enter permit file number], which includes requirements that run with the land. Current and future owners should obtain copies of the permit and also inform themselves about the critical areas that exist on the property.

This declarative covenant may be removed or modified if critical areas conditions change, or if the permit is no longer applicable. Contact the Yakima County Public Services for assistance in doing so."

(b) The declarative covenant shall not be required for a development proposal by a public agency or public or private utility:
  i) Within a recorded easement or right-of-way;
  ii) Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
  iii) On the site of a permanent public facility.

(c) The applicant shall submit proof that the declarative covenant has been filed for public record before the Administrative Official approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

(3) Subdivision Standards - The following standards apply to all permits or reviews under the Unified Land Development Code (YCC Title 19) that contain critical areas:

(a) All subdivisions that contain critical areas shall be eligible for density bonuses or other development incentives, as provided in the Unified Land Development Code (YCC Title 19);

(b) Critical areas shall be actively protected through the following:
  i) Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible;
  ii) When Geologically Hazardous Areas (excluding Erosion, Over Steepened Slopes of Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Buffers fall within the boundary of a subdivision:
    (1) Said critical areas shall be protected by placing them entirely within a separate critical area tract, or by including them entirely within one of the developable parcels. Other options, such as conservation easements and building envelopes may be deemed by the Administrative Official as meeting this provision when special circumstances obstruct the viability of this provision;
    (2) For those new lots that do contain said critical areas, useable building envelopes (5,000 square feet or more for residential uses) shall be provided on the plat that lie outside said critical areas.
  iii) New lots partially within the floodplain shall provide a usable building envelope (5,000 square feet or more for residential uses) outside the floodplain;
  iv) New lots entirely within the floodplain shall be at least one acre in area;
  v) For new lots containing, streams, wetlands, and/or vegetative buffers, outdoor use envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the plat that lie outside said critical areas;

vi) Degraded vegetative buffers shall be restored, or provided with protection measures that will allow them to recover;
vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and relevant information about them disclosed on the final plat.

Chapter 16C.04
ENFORCEMENT AND PENALTIES

Sections:

16C.04.01 Enforcement Responsibilities Generally

It shall be the duty of the Administrative Official or his designee to enforce the provisions of the Critical Areas Ordinance pertaining to all development within the jurisdiction of this title, except as expressly noted in Section 16.C.04.02 below pertaining to flood hazard permits. Whenever any development is found to be in violation of this title or a development authorization issued pursuant to this title, the Administrative Official or his designee may order any work on such development stopped by serving written notice on any person engaged in the wrongdoing or causing such development to be done. The notice shall be in the form of a "Notice of Violation and/or Stop Work Order" and shall indicate corrective actions necessary to fulfill authorization conditions and/or terms of this title and the time within which such corrections shall occur, including reclamation requirements outlined in Chapter 16C.06.23. No further development shall be authorized unless and until compliance with the development authorization conditions and/or terms of this title has been achieved to the satisfaction of the Administrative Official.

16C.04.02 Enforcement Responsibilities – Chapters 16C.05.20 through 16C.05.72, Flood Hazard Permits

It shall be the duty of the Chief Building Official or his designee to enforce the provisions of Chapters 16C.05.20 through 16C.05.72. Whenever any development is found to be in violation of said chapters or a permit issued pursuant to said chapters, the Chief Building Official may order any work on such development stopped by serving written notice on any persons engaged in the doing or causing such development or substantial development to be done. Any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

16C.04.03 Penalties

(1) Violation of the provisions of this title or failure to comply with any of its requirements constitutes a misdemeanor and a public nuisance. Any person who violates or fails to comply with any of its requirements shall, upon conviction in a court of competent jurisdiction, be fined not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.

(2) It shall be the affirmative duty of the county prosecutor's office to seek relief under this section for violations of this title.

(3) Nothing herein shall prevent the county prosecutor's office from taking such other lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

(4) In addition to any criminal proceedings brought to enforce this title and in addition to any fine or imprisonment provided for therein, continuing violations of this title may be enjoined or

ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement actions, such violations are declared to be public nuisances. Any person, firm, or corporation violating the provisions of this title shall be liable for all costs of such proceedings, including reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in addition to any other remedies available at law or equity.

Chapter 16C.05
FLOOD HAZARD AREAS

16C.05.20 FLOOD HAZARD AREAS – GENERAL PROVISIONS

Sections:

16C.05.20.010 Flood Hazard Areas Established

The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA), in a scientific and engineering report entitled "The Flood Insurance Study for Yakima County, Washington and Incorporated Areas" dated November 18, 2009, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be part of Chapters 16C.05.20 through 16C.05.72 and are established as flood hazard areas. The Flood Insurance Study and maps are on file at the Yakima County Courthouse Building, Yakima, Washington. State defined frequently flooded areas are included within the flood hazard areas. The best available information for flood hazard area identification as outlined in 16C.05.44.060 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under 16C.05.44.060.

16C.05.20.030 Principles

(1) Recognizing the right and need of the river channel to periodically carry more than the normal flow of water and desiring to minimize loss of life and property, Chapters 16C.05.20 through 16C.05.72 restrict uses and regulate structures to those that are consistent with the degree of flood hazard.

(2) In advancing the above principals, the intent of Chapters 16C.05.20 through 16C.05.72 and their application is:

(a) To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;

(b) To meet the minimum requirement of the National Flood Insurance program;

(c) To implement state and federal flood protection programs.

16C.05.20.050 Applicability

The guidelines and regulations set forth herein YCC Title 13 and related International Codes shall apply to all special flood hazard areas within the jurisdiction of Yakima County and shall be utilized when considering the issuance of permits through the administrative of quasi-judicial processes within Yakima County.

(1) The provisions of Chapters 16C.05.20 through 16C.05.72 shall apply to any development proposed in a special flood hazard area,

(2) Flood hazard permits shall be approved by Yakima County. County approvals shall only be granted when in accordance with Chapters 16C.05.20 through 16C.05.72 and other applicable local, state and federal regulations.
(3) Topographic, engineering and construction information necessary to evaluate the proposed project shall be submitted to the department for approval.
(4) The granting of a permit for any development or use shall not constitute a representation, guarantee or warranty of any kind or nature by Yakima County, or any official or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result thereto.

16C.05.20.060 Exemptions

The following uses and activities are exempt from the provisions of Chapters 16C.05.20 through 16C.05.72:

(1) The alteration or substantial improvement of any structure listed on the National Register of Historic Places or a state inventory of historic places;
(2) The installation and maintenance of aboveground utility transmission lines and poles;
(3) Private driveways, fences and other accessory activities and/or uses necessary for agricultural uses which the building official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse;
(4) Construction and practices normal or necessary for agricultural uses. The construction of an accessory barn or similar agricultural structure, designed to have a low flood-damage potential, not involving substantial cutting, filling, or watercourse modification, is subject to Section 16C.05.28.020(3)(a) through (e). (Ref. IRC 323)

16C.05.20.070 Interpretations

(1) In the interpretation and application of Chapters 16C.05.20 through 16C.05.72, the provisions shall be considered as minimum requirements, shall be liberally construed in favor of Yakima County, and deemed neither to limit nor repeal any other powers granted under state statute. Its provisions shall be applied in addition to and as a supplement to provisions of the Yakima County Codes (YCC), Title 13, Building and Construction, YCC Title 19 – Unified Land Development Code and the Shoreline Master Program (YCC Title 16D). Chapters 16C.05.20 through 16C.05.72 are not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these chapters and other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent requirement shall prevail.
(2) In an interpretation as to an exact location of the boundaries of the special flood hazard areas (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59, etc.) (Ref. IBC 104.1).

16C.05.20.080 Compliance

No structure or land shall hereafter be used, constructed, located, extended, converted or altered without full compliance with the terms of Chapters 16C.05.20 through 16C.05.72 and other applicable regulations.

16C.05.20.090 Warning and Disclaimer of Liability

The degree of flood protection required by Chapters 16C.05.20 through 16C.05.72 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. Chapters 16C.05.20 through 16C.05.72 do not imply that land outside the area of special flood hazards or uses permitted within such area will not be subject to flooding or flood damage.

16C.05.28 FLOOD HAZARD PROTECTION STANDARDS

Sections:

16C.05.28.010 General Standards

The following regulations shall apply in all special flood hazard areas:

(1) Anchoring and Construction Techniques.

(a) All new construction and substantial improvements shall be:

(i) Anchored to prevent flotation, collapse or lateral movement of the structure; and

(ii) Constructed using materials and utility equipment resistant to flood damage; and

(iii)Constructed using methods and practices that minimize flood damage; and

(iv) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques). Anchoring shall meet the specifications set forth below for structures located within one hundred feet of a floodway or the ordinary high water mark if no floodway has been established.

(c) All new construction and any improvements or additions to existing floodproofed structures that would extend beyond the existing floodproofing located within one hundred feet of the floodway or one hundred feet of the ordinary high water mark if no floodway has been established, shall be elevated to a height equal to or greater than the base flood, using zero-rise methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that non-zero-rise construction methods will not impede the movement of floodwater or displace a significant volume of water. The size and spacing of any support devices used to achieve elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified above in subsection (1)(a) of this section.

(d) Except where otherwise authorized, all new construction and substantial improvements to existing structures shall require certification by a registered professional engineer, architect or surveyor that the design and construction standards are in accordance with adopted floodproofing techniques.

(2) Utilities.

(a) All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(3) Subdivision Proposals.

Subdivision proposals shall:

(a) Be consistent with the need to minimize flood damage;

(b) Have roadways, public utilities and other facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(c) Have adequate drainage provided to reduce exposure to flood damage; and

(d) Include base flood elevation data.

(4) Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a watercourse in riverine situations, the department shall notify adjacent communities, the Department of Ecology and FEMA of the proposed development.

16C.05.28.020 Specific Standards

In all special flood hazard areas where base elevation data has been provided as set forth in Section 16C.05.20.010, the following regulations shall apply, in addition to the general regulations of Section 16C.05.28.010:

(1) Residential Construction. (ref. IRC323.2)

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation.

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(c) Residential construction within one hundred feet of a floodway or the ordinary high water mark, if no floodway has been established, shall also meet the requirements of Section 16C.05.28.010(1)(c).

(2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure, and any addition to an existing floodproofed structure that would extend beyond the existing floodproofing, shall either have

the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below an elevation one foot above base flood level the structure is watertight, with walls substantially impermeable to the passage of water; and

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and method of construction are in accordance with accepted standards of practice for meeting provisions of this subsection, based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official;

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 16C.05.28.020(1)(b) above;

(e) Meet the special standards for structures set forth in Section 16C.05.28.010(1)(c) above if within one hundred feet of a floodway or within one hundred feet of the ordinary high water mark and no floodway has been established;

(f) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below the level). Flood proofing the building an additional foot will reduce insurance premiums significantly. (Ref. IBC 1612.5)

(3) Agricultural Construction. New construction and substantial improvement of any agricultural structure shall either have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation; or meet the floodproofing requirements of subsection (2) of this section. Agricultural construction or other accessory structures that constitute a minimal investment and comply with the floodway encroachment standards may be exempt from the floodproofing and elevation requirements of subsection (2) above when such structures, together with attendant utility sanitary facilities:

(a) Have a low potential for structural flood damage;

(b) Are designed and oriented to allow the free passage of floodwaters through the structure in a manner affording minimum flood damage; and

(c) Ensure that all electrical and mechanical equipment subject to floodwater damage and permanently affixed to the structure be elevated a minimum of one foot above the base flood elevation or higher, or floodproofed;

(d) Are constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and

(e) Will not be used for human habitation.

All such structures shall be anchored to resist flotation, collapse, and lateral movement, and that only flood resistant materials be used for elements of these buildings below the base flood elevation.

(4) Manufactured Homes.

(a) Manufactured homes shall be anchored in accordance with Section 16C.05.28.010(1)(b), shall have the lowest floor elevated to or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with Section 16C.05.28.010(1)(b).

16C.05.32 FLOODWAY FRINGE USES

Sections:

16C.05.32.010 Permitted Uses

The following uses are permitted in the floodway fringe areas:

(1) Any use permitted in the zoning district in accordance with YCC Title 19 of the Yakima County Code, unless prohibited by Section 16C.05.32.020.

(2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with YCC Title 19 and where not otherwise inconsistent with Chapters 16C.05.20 through 16C.05.72; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:

(a) Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed.

(b) Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of Section 16C.05.36.010(2)(c).

(c) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all other agricultural and nonagricultural floodway fringe or special flood hazard areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage.

(d) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.

(e) Aboveground utility transmission line appurtenant structures, including valves, pumping stations or other control facilities, shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available, or in the event a floodway fringe or special flood hazard location is environmentally preferable. In such instances, aboveground structures shall be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately floodproofed.

16C.05.32.020 Prohibited Uses

The following uses shall be prohibited in floodway fringe areas:

(1) New manufactured home parks and the expansion of manufactured home/parks.

16C.05.36 FLOODWAY USES

Sections:

16C.05.36.010 Permitted Uses Permitted uses include any use permitted in the zoning district in accordance with YCC Title 19 of this code, provided that said use is in compliance with the flood hazard protection standards of Chapter 16C.05.28 and other applicable provisions of this title, and will have a negligible effect upon the floodway in accordance with the floodway encroachment provisions of Section 16C.05.36.020(2):

(1) Surface mining, provided that the applicant can provide clear evidence that such uses will not divert flood flows causing channel-shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of Title 19 and the Yakima County Shoreline Management Master Program Regulations (Shoreline Master Program (Title 16D), where applicable);

(2) Utility transmission lines, unless otherwise prohibited by this division; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:

(a) All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways,

(b) Electric transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed,

(c) Buried utility transmission lines transporting hazardous and nonhazardous materials, including but not limited to crude and refined petroleum products and natural gas, water and sewage, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by Yakima County, shall assume the conditions of a one-hundred-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the Yakima County Shoreline Management Master Program Regulations,

(d) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all agricultural areas requiring or potentially requiring subsurface drainage shall be a minimum of six feet as measured from ground surface to the top of the transmission line, or at other such depth as deemed necessary by on-site investigations performed by a qualified soils expert familiar with Yakima County

soils. Burial depth in all other agricultural and nonagricultural floodway areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage,

(e) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the level of the one-hundred-year flood, the transmission line shall be placed on the downstream side and protected from flood debris. In such instances, site-specific conditions and flood damage potential shall dictate placement, design and protection throughout the floodway. Applicants must demonstrate that such aboveground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be adequately protected from flood damage. If the transmission line is to be buried except at the waterway crossing, burial specifications shall be determined as in subsection (2)(C) of this section;

(f) Aboveground utility transmission line appurtenant structures, including valves, pumping stations, or other control facilities, shall not be permitted in the floodway,

(g) Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified one-hundred-year flood event;

(3) Construction or reconstruction of residential structures only as authorized in Section 16C.05.36.020(3);

(4) Improvements to existing residential structures that are not substantial improvements per Section 16C.02.395; provided, the improvement complies with the requirement set forth in Section 16C.05.36.020(2).

(5) Water-dependent utilities and other installations which by their very nature must be in the floodway. Examples of such uses are: dams for domestic/industrial water supply, flood control and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; structures and nonstructural uses and practices; provided, that the applicant shall provide evidence that a floodway location is necessary in view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this title and the Shoreline Management Master Program (YCC Title 16D). In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection (2) above;

(6) Dikes, provided that the applicant can provide evidence that:

(a) Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences,

(b) Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired,

(c) The proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented;

(7) Roads and bridges, subject to the regulations of Section (2) above.

16C.05.36.020 Prohibited Uses

The following uses/developments are prohibited in the floodway:

(1) Any structure, including manufactured homes, designed for, or to be used for human habitation of a permanent nature (including temporary dwellings authorized by Section 15.72.060);

(2) All encroachments, including fill, new construction and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;

(3) Construction or reconstruction of residential structures within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the assessed value of the structure either (A) before the repair, reconstruction or improvement is started, or (B) if the structure has been damaged and is being restored, before the damage occurred. Work done on structures to correct existing violations of existing health, sanitary or safety codes, or to structures identified as historic places shall not be included in the fifty percent. If subsection (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Chapters 16C.05.20 through 16C.05.72, including those set forth in subsection (5) below;

(4) The construction or storage of any object subject to flotation or movement during flood level periods;

(5) The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway, are specifically prohibited:

(a) The filling of wetlands, except as authorized under Chapter 16C.06 (Fish and Wildlife Habitat and the Stream Corridor) and Chapter 16C.07 (Wetlands) of this title,

(b) Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or materials,

(c) Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the occurrence of the base flood discharge;

(6) The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited.

16C.05.40 NON-CONFORMING USES AND STRUCTURES

Sections:

16C.05.40.010 Generally

(1) Within the special flood hazard areas established by Chapters 16C.05.20 through 16C.05.72 or amendments thereto, there may exist structures and uses of land and structures which were

lawful before these chapters were adopted or amended, but which would be prohibited, regulated or restricted under the terms of Chapters 16C.05.20 through 16C.05.72 or future amendment.

(2) It is the intent of Chapters 16C.05.20 through 16C.05.72 to permit these lawful pre-existing nonconformities to continue until they are removed by economic forces or otherwise, but not to encourage their survival except in cases where continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of said chapters.

(3) To avoid undue hardship, nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program, and upon which actual building construction has been diligently carried on; namely, actual construction materials placed in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved. October 1, 1995, the effective date of the ordinance codified in Title 16A shall be used as it applies to all other Critical Areas requirements established under Title 16A by Ordinance 8-1995.

16C.05.40.020 Non-conforming Uses of Land

If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a lawful use of land not conducted within a building exists that is made no longer permissible under the terms of said chapters as adopted or amended, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of the lot of record than that which it occupied at the effective date of adoption or amendment of Chapters 16C.05.20 through 16C.05.72.

(2) At such time as a structure is erected thereon, the structure and the use of the land shall conform to the regulations specified by Chapters 16C.05.20 through 16C.05.72 and YCC Title 19.

16C.05.40.030 Non-conforming Structures

(1) If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a structure is nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirement of said chapters and Chapter 19.33 of YCC Title 19, provided that the degree of nonconformity shall not be increased and the applicable elevation and/or floodproofing requirements of this title shall be observed, any structural alterations or enlargements of an existing structure under such conditions shall not increase the degree of nonconformity.

(2) A structure, nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirements of Chapters 16C.05.20 through 16C.05.72, destroyed to an extent such that restoration costs would exceed fifty percent of the assessed value of the structure immediately prior to such occurrence, shall be considered completely destroyed and shall be required to meet all applicable requirements of this titles and YCC Title 19 upon restoration.

16C.05.40.040 Improvements

Nothing in Chapters 16C.05.20 through 16C.05.72 shall be construed to restrict normal structural repair and maintenance activities, including replacement of walls, fixtures and plumbing, provided that the value of work and materials in any twelve-month period does not exceed twenty-five percent of the assessed value of the structure prior to such work.

16C.05.40.050 Restoration

Nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to prohibit the restoration of the structural portions of a nonconforming use within six months from the date of its accidental damage by fire, explosion, or act of God; provided that the applicable elevation and/or floodproofing requirements of said chapters shall be adhered to if the structure is destroyed. A structure shall be considered to be destroyed if the restoration costs exceed fifty percent of the assessed value.

16C.05.40.060 Discontinuance

If the nonconforming use is discontinued for a period of twelve consecutive months or more, the nonconforming status of the use is terminated and any future use of the land or structures shall be in conformity with the provisions of this title. The mere presence of a structure, equipment, or material shall not be deemed to constitute the continuance of a nonconforming use unless the structure, equipment or material is actually being occupied or employed in maintaining such use. The ownership of property classed as nonconforming may be transferred without that fact alone affecting the right to continue such nonconforming use.

16C.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION

Sections:

16C.05.44.010 Administration

The Chief Building Official is vested with the duty of administering the rules and regulations relating to flood hazard protection in accordance with the provisions of Chapters 16C.05.20 through 16C.05.72 and may prepare and require the use of such forms as are essential to such administration.

16C.05.44.020 Authority

Upon application, the Chief Building Official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20 through 16C.05.72 and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of the policies of the Critical Areas Ordinance.

16C.05.44.030 Permit – Required

Prior to any development within a special flood hazard area a flood hazard permit shall be obtained. This permit may be in addition to the critical area development authorization as set forth in Chapter 16C.03 of this title.

16C.05.44.040 Permit – Application

All persons applying for a flood hazard permit shall submit a written application, accompanied by an application fee as specified in YCC Title 20, using the forms supplied. The application shall not be considered complete until the following minimum information is provided:

(1) Name, address and telephone number of applicant;
(2) Name, address and telephone number of property owner;
(3) Project description and taxation parcel number;
(4) Name of the stream or body of water associated with the floodplain in which the development is proposed;
(5) Site plan map showing:
    (a) Actual dimensions and shape of the parcel to be built on,
    (b) Sizes and location of existing structures on the parcel to the nearest foot,
    (c) Location and dimensions of the proposed development, structure or alteration,
    (d) Location, volume and type of any proposed fill,
    (e) The application shall include such other information as may be required by the administrative official, to clarify the application, including existing or proposed building or alteration, existing or proposed uses of the building and land, and number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot, and such other matters as may be necessary to determine conformance with, and provide for the enforcement of Chapters 16C.05.20 through 16C.05.72;
(6) Information required by other sections of Chapters 16C.05.20 through 16C.05.72.

16C.05.44.050 Permit – Review

Flood hazard permit applications will be reviewed to determine:

(1) That the floodproofing requirements and other provisions of Chapters 16C.05.20 through 16C.05.72 have been satisfied;
(2) If the proposed development is located in the floodway, the floodway encroachment provisions of Section 16C.05.36.020(2) are met;
(3) If the proposed development includes the alteration or relocation of a watercourse, the provisions of Section 16C.05.28.010(4) are met;
(4) That the proposed development is a use permitted under Chapters 16C.05.20 through 16C.05.72 and YCC Title 19;
(5) That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

16C.05.44.060 Use of Available Data

When base flood elevation data has not been provided in accordance with Section 16C.05.20.010 (Flood hazard areas established), the county shall obtain, review, and reasonably utilize any flood area extent from frequently flooded areas, base flood elevation, and floodway data available from a federal, state or other source, in order to administer Section 16C.05.28.020 (Specific Standards) and 16C.05.36.020 (Floodway Prohibited Uses) and Chapter 16C.04 (Enforcement and Penalties). For flood hazard areas without elevations from FIRMs, they shall be determined for proposed structures by the flood official as the greater of the ground elevation at the flood map extent or the maximum ground elevation plus two feet at the proposed structure footprint.

16C.05.44.070 Limitations

Permits issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized is a violation of Chapters 16C.05.20 through 16C.05.72 and punishable as provided by16C.04 (Enforcement and Penalties).

16C.05.44.080 Permit – Expiration & Cancellation

If the work described in any permit has not begun within one hundred eighty days from the date of issuance thereof, the permit shall expire and be canceled by the chief building official.

16C.05.44.090 Performance bonds

(1) The county may require bonds in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with approvals under Chapters 16C.05.20 through 16C.05.72. Bonds, if required, shall be furnished by the property owner, or other person or agent in control of the property.

(2) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the department in an amount equal to that which would be required in the surety bond.

16C.05.44.100 Appeals

The decision to grant, grant with conditions or deny a flood hazard permit shall be final and conclusive unless the applicant appeals the decision pursuant to the procedure established for appeals in Chapter 16C.03.

16C.05.44.110 Coordination

Upon application, the Chief Building Official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20 through 16C.05.72 and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of this title.

16C.05.48 ELEVATION AND FLOODPROOFING CERTIFICATION

Sections:

16C.05.48.010 Applicability

Certification shall be provided to verify that the minimum floodproofing and elevation standards of Chapter 16C.05.28 have been satisfied. Certification shall be required only for the new construction or substantial improvement of any residential, commercial, industrial or nonresidential structure located in a special flood hazard area, except that agricultural and certain accessory structures constructed in accordance with the standards of Section 16C.05.28.020(3) shall not require certification. Such structures are still subject to elevation or floodproofing certification for flood insurance purposes.

16C.05.48.020 Certification Form

The form of the elevation and floodproofing certificate shall be specified by the Chief Building Official and shall be generally consistent with that required by FEMA for the administration of the National Flood Insurance Program.).

16C.05.48.030 Information to be obtained and maintained

The elevation and floodproofing certificate shall verify the following flood hazard protection information:

(1) The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

(2) The actual elevation (in relation to mean sea level) of floodproofing of all new or substantially improved floodproofed structures, and that the floodproofing measures utilized below the base flood elevation render the structure watertight, with walls substantially impermeable to the passage of water;

(3) Where a base flood elevation has not been established according to Section 16C.05.20.010, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) as related to the highest adjacent grade, and whether or not the structure contains a basement.

16C.05.48.040 Certification Responsibility

The project proponent shall be responsible for providing required certification data to the Chief Building Official prior to the applicable construction inspection specified in the certification form. All elevation and floodproofing data specified in Section 16C.05.48.030 must be obtained and certified by a registered professional engineer, architect, or surveyor. The elevation and floodproofing certification shall be permanently maintained by the chief building official.

16C.05.52 VARIANCES

Sections:

16C.05.52.010 Procedure

Any person seeking a variance from the requirements of Chapters 16C.05.20 through 16C.05.72 authorized under Section 16C.05.52.020 shall make such request in writing to the department on forms supplied by the department. Upon receipt of a completed application and application fee for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent property within twenty days of the receipt of completed application and fee. The notice shall solicit written comment on the variance request and specify a time period not less than ten days from the date of mailing, during which written comments may be received and considered. The notice shall also state that copies of the administrative official's final decision will be mailed upon request. The administrative official may also solicit comments from any other person or public agency he or she feels may be affected by the proposal.

16C.05.52.020 Variance limitations

(1) Variances shall be limited solely to the consideration of:
    (a) Elevation requirements for lowest floor construction;
    (b) Elevation requirements for floodproofing;
    (c) The type and extent of floodproofing.
(2) Variances shall not be considered for any procedural or informational requirements or use prohibitions of Chapters 16C.05.20 through 16C.05.72.

16C.05.52.030 Conditions for Authorization

Before a variance to the provisions of Chapters 16C.05.20 through 16C.05.72 may be authorized, it shall be shown that:

(1) There are special circumstances applicable to the subject property or to the intended use, such as size, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone; and
(2) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located; and
(3) Such a variance is the minimum necessary, considering the flood hazard, to afford relief; and
(4) Failure to grant the variance would result in exceptional hardship to the applicant; and
(5) The granting of such a variance will not result in:
    (a) Increased flood heights,
    (b) Additional threats to public safety,
    (c) Creation of nuisances,
    (d) Extraordinary public expense,
    (e) Conflicts with other existing local laws or ordinances.

16C.05.52.040 Administrative Official’s Decision

After considering any comments received from other agencies, jurisdictions or adjoining property owners, the administrative official shall approve, approve with conditions, or deny the variance request. The administrative official shall prepare written findings and conclusions stating the specific reasons upon which the decision is based.

16C.05.52.050 Notification and Final Decision

The decision shall be issued within seven days from the end of the comment period. Further, the administrative official shall mail the findings and decision to the applicant and to other parties of record requesting a copy.

16C.05.52.060 Power to Refer Decisions

In exercising the duties and powers of implementing and administrating Chapters 16C.05.20 through 16C.05.72, the administrative official may refer any variance application to the hearing examiner for action at a public hearing.

16C.05.52.070 Appeals

Any decision by the administrative official to approve or deny a variance request may be appealed subject to the procedures set forth in Section16C.03.13 (Development Authorization – Review Procedure).

16C.05.72 MAP CORRECTION PROCEDURES

Sections:

16C.05.72.010 Federal Flood Hazard Map Correction Procedures

16C.05.72.010 Federal flood hazard map correction procedures.

The procedures for federal flood hazard map correction, as provided in federal regulations Section 70 CFR of the National Insurance Program are hereby adopted by reference.

Chapter 16C.06
FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM

Sections:

16C.06.01 Purpose and Intent

(1) The stream corridor system includes hydrologically related critical areas, streams, lakes, ponds, and wetlands, and are part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to help conserve, protect, and, where feasible, restore and enhance this complex relationship. These regulations have been designed to:
   (a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the functions and values of fish and wildlife habitat, wetlands, stream undercutting geologic hazards and frequently flooded areas; and to give special consideration to anadromous fish;
   (b) Meet eligibility requirements of the National Flood Insurance Program (NFIP), and the authorities set forth in RCW 86.12.

(2) The guidelines, policies, and standards of this chapter are intended to:
   (a) Provide alternatives for necessary development, construction, and uses within a designated stream corridor and other hydrologically related critical areas;
   (b) Prevent further degradation in the quantity and quality of surface and subsurface waters;
   (c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation, and ecological relationships;
   (d) Protect public and private properties from adverse effects of improper development within hazardous or sensitive areas of the stream corridor;
   (e) Provide a zero net loss of natural wetlands functions and values together with, a gain of wetlands in the long term, if reasonably possible through voluntary agreements or government incentives;
   (f) Establish measures to protect streams, lakes, ponds, and wetlands;
   (g) Recognize that, based on WAC 365-190-130(1) (Fish and Wildlife Habitat Conservation Areas) means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability. Fish and wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.

16C.06.02 Protection Approach

(1) To maintain viable populations of fish and wildlife species, there must be adequate environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals at a variety of scales across the landscape. Key factors affecting habitat quality include fragmentation, the presence of essential resources such as food, water, nest building materials, the complexity of the environment, and the presence or absence of predator species and diseases. As a method of linking large habitat areas, migration corridors offer a means by which to connect publicly protected lands and other intact habitat areas. Riparian corridors offer a natural system of such linkages. Yakima County accomplishes fish and wildlife habitat protection in 3 parts:

(a) Protect habitat for aquatic (in-water) species through stream, lake, pond and wetland standards;
(b) Protect habitat for riparian (near-water) species through stream, lake, pond, and wetland standards and buffer requirements;
(c) Protect upland habitat conservation areas using the habitat protection measures of Chapter 16C.11.

(2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land, including State Natural Area Preserves and Natural Resource Conservation Areas. These lands are managed to some extent for the conservation of wildlife habitat. Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is to rely on the management of these lands by the responsible entity. The protection of Larch mountain salamander *(Plethodon larselli)* (State Sensitive, Federal Species of Concern) and Spotted Owl *(Strix occidentalis)* (State Endangered, Federal Threatened) habitat is accomplished through this approach, since their habitat of primary association is located within Federal ownership.

(3) To accomplish upland wildlife protection on private lands, Yakima County uses Washington State Department of Fish and Wildlife staff consultation and Priority Habitat and Species mapping to identify wildlife habitat. Yakima County relies upon large lot/low density provisions of the Remote/Extremely Limited Development Potential (40-acre minimum), Forest Watershed (80-acre minimum) and Agriculture (40-acre minimum) zoning districts to protect upland wildlife on private lands. Proposed development within upland wildlife habitat areas is reviewed in accordance with 16C.03.02(3)(c)(ii) to determine if a habitat assessment is required.

(4) Corridors for wildlife to move between large habitat areas are a component of wildlife habitat. In semi-arid regions such as Yakima County, riparian corridors not only offer migratory linkages between large habitat areas but also offer important refuge and habitat for numerous species that rely on the riparian areas for their existence. Yakima County's approach to protect wildlife migration corridors is to rely on the protection measures for stream corridors, wetlands, upland wildlife habitat, and Shoreline jurisdiction (YCC 16D), where applicable.

(5) Through the wildlife habitat analysis, habitat for listed state and federal threatened, endangered, and sensitive species was assessed and incorporated for upland species. Consequently, Yakima County's approach to protect habitat for listed state and federal threatened, endangered, and sensitive upland species is outlined in Section 16C.11.060 and 16C.11.070. Protection measures for Bull Trout *(Salvelinus confluentus) (S*tate Candidate, Federal Threatened) and Steelhead *(Oncorhynchus mykiss) (S*tate Candidate, Federal Threatened) are accomplished by the standards in Chapter 16C.06.

Designation and Mapping

16C.06.03 Hydrologically Related Critical Area Features

The stream corridor and other hydrologically related critical areas are designated critical areas and include one or more of the following features:

(1) Any floodway and floodplain identified as a special flood hazard area. Special flood hazard areas are those identified by the Federal Insurance Administration in the Flood Insurance Study for Yakima County which, together with accompanying Flood Insurance Rate Maps and frequently flooded areas are hereby adopted by reference and declared to be a part of this title as set forth in Chapters 16C.05.20 through 16C.05.72;

(2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main channel and all secondary channels within the Ordinary High Water Mark;
(3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-made lakes and ponds created within a stream channel designated under (2) above;
(4) All wetlands, that meet the definition found in Section 16C.02.425, as required by WAC 365-190-080(1), and as designated in Section 16C.07.02(1) of the wetland chapter;
(5) Where specifically cited, any flood-prone area not included in a designated floodway and floodplain, but indicated as flood-prone (i.e. specific flood frequency, stream channel migration), by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.;
(6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream channel, lake, or pond, designated in this section or from the edge of a wetland designated in this section according to the distances set forth in Section 16C.06.16 (Vegetative Buffers);

16C.06.05 Functional Properties

(1) Streams, lakes and ponds and wetlands require a sufficient riparian area to support one or more of the following functional properties:
  (a) Streambank and shore stabilization;
  (b) Providing sufficient shade through canopy cover to maintain water temperatures at optimum levels and to support fish habitat;
  (c) Moderating the impact of stormwater and meltwater runoff;
  (d) Filtering solids, nutrients, and harmful substances;
  (e) Surface erosion prevention;
  (f) Providing and maintaining migratory corridors for wildlife;
  (g) Supporting a diversity of wildlife habitat;
  (h) Providing floodplain functions noted below;
  (i) Contributing woody debris and organic matter to the aquatic environment;
  (j) Providing altered climatic conditions different from upland areas.
(2) Stream channels generally support one or more of the following functional properties:
  (a) Groundwater recharge and/or discharge;
  (b) Water transport;
  (c) Sediment transport and/or storage;
  (d) Biogeochemical functions (see lakes, ponds and wetland functions below);
  (e) Channel migration and creation of a dynamic habitat mosaic;
  (f) Food web and habitat functions
(3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or lesser degree. Wetlands are often located along the margins of lakes and ponds, which often mixes the functions between the two. Lakes, ponds and wetlands generally provide one or more of the following functional properties:
  (a) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention and transformation;
  (b) Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;
  (c) Food web and fish and wildlife habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.

(4) Floodplains generally provide one or more of the following functional properties:
   (a) Floodwater storage and passage, including the movement of high velocity flood waters;
   (b) Sediment storage and recruitment;
   (c) Food web and habitat functions;
   (d) Nutrient sink and/or source;
   (e) Groundwater recharge and/or discharge.

(5) Some functions, as, for example, supporting a diversity of wildlife habitat, require larger areas which may not be achievable due to existing development and construction constraints. In these instances, adjustments to the minimum standards to accommodate such constraints may be necessary. However, a reduction of standards impairs the hydrologically related critical area's ability to support some functional properties. Reductions of standards should be offset by enhancement, restoration or preservation measures which replace lost functions or strengthen other functional properties if replacement of the lost functions is not possible.

16C.06.06 Stream, Lake and Pond Typing System

For purposes of this title, Yakima County hereby adopts a stream, lake and pond typing system, for those features designated as critical areas in Section 16C.06.03 (Hydrologically Related Critical Area Features), as follows:

(1) **Type 1 streams**, lakes and ponds are those waters, within their ordinary high water mark (OHWM), meeting the criteria as "shorelines of the state" and "shorelines of statewide significance" under RCW Chapter 90.58, but not including those waters' associated wetlands as defined in RCW Chapter 90.58. The current list of Shoreline waters, along with their specific shoreline environments are provided in Appendix B and C of the Shoreline Master Program. Type 1 streams and lakes are protected by the Shoreline Mater Program (YCC Title 16D), rather than the CAO;

(2) **Type 2 streams** are those streams that may be perennial or seasonal and that are known to be used by anadromous fish or resident salmonids. Type 2 streams require protection due to the nature of their contributions to the functional properties listed in Section 16C.06.05. Designated Type 2 streams are listed in Appendix A of this title.

(3) **Type 3 streams** include all perennial streams within Yakima County not classified as Type 1 or 2;

(4) **Type 4 streams** are all intermittent streams within Yakima County not classified as Type 1, 2 or 3;

(5) **Type 5 streams** are all ephemeral streams within Yakima County not classified as Type 1, 2, 3 or 4. Type 5 streams are not regulated under this title;

(6) **Lakes and ponds** not designated as a shoreline that receive water from the OHWM of a Type 2, 3, or 4 stream shall have the same surface water type as the highest stream type associated with it;

(7) **Natural lakes and ponds,** not designated as a shoreline, that do not receive water from the OHWM of a Type 1, 2, 3, or 4 stream shall be Type 3 ponds.

16C.06.07 Wetland Rating System

Wetlands within Yakima County are defined in Section 16C.02.425 and are shown on the data maps referenced in Section 16C.06.08 (Maps). Most, but not all, of the wetlands within Yakima County occur near streams. All wetlands deserve a standard of protection, through the use of vegetative buffers, that is directly related to their contribution to the functional properties listed in

Section 16C.06.05 (Functional Properties) and Section 16C.07.04 (Wetland Functions and Rating). For regulatory purposes, wetlands are classified into four categories according to the Wetland Rating System found in Section 16C.07.04(2) (Wetland Functions and Rating) of the wetland chapter.

16C.06.08 Maps

Certain fish and wildlife habitat and hydrologically related critical areas have been inventoried and are depicted on a series of paper and electronic maps maintained at the Yakima County Public Services Department. The best available graphic depiction of critical areas within the county will be used and continuously updated as reliable data becomes available. Maps may be both regulatory and non-regulatory in nature as described below:

(1) Regulatory maps are created with a defined process not necessarily corresponding directly with easily observable physical features such as streams and wetlands. These maps define the regulated critical areas. They are also formally adopted by the Board of Yakima County Commissioners and may only be changed by that body. Regulatory maps include the following:
    (a) Any floodway or floodplain identified as a special flood hazard area by the Federal Insurance Administration in the Flood Insurance Study for Yakima County.

(2) Administrative maps are intended to indicate the approximate presence, location and/or typing of the subject critical area features, and act as a trigger for further investigation of the extent and characteristics of critical areas in a specific project location. These maps were created using reconnaissance level or better data. Given site-specific variations in reconnaissance level data, more detailed information developed at the site-specific level may be used to modify the maps as it is developed; the maps maintained by the Yakima County Public Services Department do not officially define the extent or characteristics of specific critical areas; rather the physical characteristics that exist "on the ground" define the boundaries of the regulated critical areas. Administrative maps include, but are not limited to the following:
    (a) Wetlands;
    (b) Streams;
    (c) Channel migration zone;
    (d) Priority Habitat and Species (PHS) and Habitats of Local Importance - Mapped habitat areas for newly listed species will be generated as needed to supplement the existing maps. PHS and Habitats of local importance currently include:
        i) Available maps from WDFW regarding the location of those Priority Habitat and Species listed in Appendix B.
        ii) Type 2 Streams, lakes and/or ponds listed in Appendix A.
    (e) Upland Wildlife Habitat Analysis Map.

(3) Other information sources – these are maps or other data sources, including special studies and management plans, which are neither produced or maintained by the Yakima County Public Services Department, which are used to indicate the presence of Critical Areas, importance or ranking of critical areas functions, or hazard or risk associated with Critical Areas. These information sources include, but are not limited to:
    (a) Comprehensive Flood Hazard Management Plans and associated studies;
    (b) Soil Survey of Yakima County;
    (c) Natural resource management plans, such as local and federal Recovery Plans, or Forest Plans prepared by the US Forest Service;

(d) Surficial Geologic Maps;
(e) Historic and Current Aerial Photo Series;
(f) Geohydraulic studies – geologic cross sections showing aquifers and confining units;
(g) Priority Habitat and Species Maps.

General Development Standards

16C.06.10 Prohibited Uses

The following uses and activities are prohibited within a designated hydrologically related critical area:

(1) Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;
(2) Confinement feeding operations including livestock feedlots and dairy confinement areas;
(3) The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;
(4) The draining or filling of a wetland, lake or pond, except as provided for in Section 16C.06.21 (Filling);
(5) The removal and transport of material for fill outside of the stream corridor;
(6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds, and other similar waste disposal facilities. This provision does not include municipal wastewater lines or septic systems approved by a local or state agency with authority to permit such facilities;
(7) Solid waste disposal sites;
(8) Automobile wrecking yards;
(9) Fill for the sole purpose of increasing land area within the stream corridor;
(10) Those uses located within the floodway fringe that are listed in 16C.05.32.020 (new and expanded mobile or manufactured home parks);
(11) Those uses located within the floodway that are listed in 16C.05.36.020 (dwellings, filling wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and any use causing flood impacts.)
(12) Construction or placement of an inhabitable structure within an identified landslide hazard area, landslide run-out area, or their buffers.

16C.06.11 General Policies and Standards

The following policies and standards shall apply to any development, construction, or use carried out within a designated hydrologically related critical area:

(1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland buffers shall be marked on the ground before any development, construction, or use is initiated.
(2) Any disturbance to existing riparian vegetation and any unique or sensitive vegetative species identified on the project site within the stream corridor shall be mitigated according to the standards set forth in 16C.03.10.
(3) Any disturbance to nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be mitigated according to the standards set forth in 16C.03.10.
(4) Projects within the stream corridor shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered.

(5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved by a local, state or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the Yakima Regional Stormwater Manual are considered to have met the following required development standards that apply to all projects:

(a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.

(b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion.

(c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.

(d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and meltwater runoff into stream channels, drainage ways, and conduits, shall provide on-site or off-site facilities for the detention, control, and filtration of such increases.

(e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.

(f) Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.

(6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.

(7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.

(8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.

(9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.

(10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.

(11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.

(12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.

(13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.

(14) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(15) Development, construction, or uses within the hydrologically related critical area that would contribute to the degradation of the functions and values shall be avoided or mitigated using mitigation sequencing as outlined in Section 16C.03.10 (Mitigation Requirements).

(16) Development shall not obstruct, cut off, or isolate stream corridor features.

(17) Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership.

(18) If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify Yakima County, the Washington State Office of Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).

(19) The provisions of Chapters 16C.05.20 through 16C.05.72 of this title shall also apply to the development of lots and the placement, construction, or installation of structures in floodways and floodplains.

(20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using reclamation standards in Section 16C.06.23 (Reclamation).

(21) Projects located within the floodway must meet the requirements of 16C.05.36.010 (Floodway – Permitted Uses).

(22) Projects within a floodplain must meet the requirements of Section 16C.05.28. (Flood Hazard Protection Standards) and 16C.05.32 (Floodway Fringe Uses).

(23) Changing from an existing use or development which does not meet the provisions of this chapter to a new use shall be reviewed in light of the following:

(a) The conversion will demonstrably reduce impacts to stream corridor and other hydrologically related critical area features; and

(b) The conversion will restore and/or enhance the functional properties outlined in Section 16C.06.05 (Functional Properties).

Water Dependency Development Standards and Buffer Requirements

16C.06.12 Use Classifications

For purposes of this chapter, the components of any development, construction, or use requiring a critical area development authorization shall be classified as provided below, and shall conform with the development standards applicable to the classification provided in Sections 16C.06.13 through 16C.06.15, except for those activities listed in Section 16C.03.05 (Minor Activities Allowed without a Permit):

(1) Water Oriented Uses are one of the following two categories of uses:

(a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland crossings for roads and railroads, stream and wetland crossings for utilities, swimming

beaches, fishing sites, in-water or on-land shore stabilization structures, livestock watering sites, and other uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. This provision applies only to the specific portion of a project that is demonstrably dependent upon the water or shore.

(b) A water-related use is one not intrinsically dependent on a waterfront location but whose economic viability is enhanced by a waterfront location either because it requires large quantities of water, or because it provides services for water dependent uses and the proximity to its customers makes such services less expensive and/or more convenient. Examples would include thermal power plants, wastewater treatment plants, water processing and treatment plants, support services for fish hatcheries or aquaculture, fly shops and boat rental shops.

(2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

16C.06.13 Water-dependent Uses

The following provisions shall apply to water-dependent uses:

(1) Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore;

(2) Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers);

(3) Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.

16C.06.14 Water-related Uses

The following provisions shall apply to water-related uses:

(1) Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water;

(2) Structures and use areas shall not be located within the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers) except where existing development or the requirements associated with the use make such a location unavoidable.

16C.06.15 Non-water Oriented Uses

The following provisions shall apply to non-water-oriented uses:

(1) Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers);

(2) Construction abutting the vegetative buffer specified in Section 16C.06.16 (Vegetative Buffers) shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

16C.06.16 Vegetative Buffers

(1) Establishment. There is hereby established a system of vegetative buffers that are necessary to protect and maintain the functions and values of certain hydrologically related critical areas. Standard buffers for streams, lakes, ponds and wetlands, based on a review of the best available science, are listed in table 6-1 and 6-2.

(a) Vegetative buffers shall be measured horizontally from the Ordinary High Water Mark (OHWM) for streams, lakes and ponds, and from the wetland edge for wetlands, as identified in the field. The width of the buffer shall be determined according to the stream or wetland type.

(b) Buffer width may be reduced through an Adjustment (16C.03.23) permit process. Type 1 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D) rather than the Critical Areas Ordinance (YCC Title 16C).

(c) The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation is degraded, then no adjustment to the buffer width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

Table 6-1

Stream Type	**Buffer Width** See 16C.06.16, subsections (1)(a)-(c).
Type 1 Shoreline streams, lakes and ponds	100’ (Type 1 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D) rather than the Critical Areas Ordinance (YCC Title 16C))
Type 2 streams, lakes and ponds	100’
Type 3 streams (Perennial), lakes and ponds	50’
Type 4 streams (Intermittent), lakes and ponds	25’
Type 5 streams (Ephemeral)	**No buffer standards** Type 5 streams are not regulated through buffer requirements. However, activities such as clearing, grading, dumping, filling, or activities that restrict or block flow, redirect flow to a point other than the original exit point from the property or result in the potential to deliver sediment to a drainage way/channel, are regulated under clearing and grading regulations. These drainages may also be protected under geologically hazardous area, floodplain, stormwater, building and construction, or other development regulations.

Table 6-2

Type 1 Wetlands	**Type 2 Wetlands**	**Type 3 Wetlands**	**Type 4 Wetlands**
200’	100’	75’	50’

16C.06.17 Roads, Railroads and Parking

The following provisions shall apply to the location and construction of roads, railroads and parking within a designated hydrologically related critical area; except that logging roads, being a special category of roads, may be regulated as Forest Practices under this title (refer to those relevant sections):

(1) Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor, or where existing development, topography, and other conditions preclude locations outside the stream corridor.
   (a) Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
   (b) Roadways that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.
   (c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate stream corridor features.

(2) Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade, or shall be transported outside the corridor;

(3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood-prone;

(4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor;

(5) Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water, sediment and woody debris;

(6) The preservation of natural stream channels and drainage ways shall be preferred over the use of culverts, where culverts are the preferred method, large, natural bottom culverts, multi-plate pipes and bottomless arches are preferred;

(7) The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.

(8) Where fish are present, culverts shall be designed and constructed to specifications provided through the Department of Fish and Wildlife;

(9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed away during high water;

(10) Roads must be designed and constructed using established flood resistant and design and construction methods when they may be subject to damage by flood waters;

(11) Roads and bridges within floodways must meet the requirements of Section 16C.05.36.010 (2) and (7).

16C.06.18 Utility Transmission Lines and Facilities

The following provisions shall apply to the location, construction, or installation of utility transmission lines and facilities (such as those for wastewater, water, communication, natural gas, etc.) within a designated hydrologically related critical area:

(1) Utility transmission lines and facilities shall be permitted within the stream corridor only where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor.
   (a) Utility transmission lines and facilities across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
   (b) The construction of utility transmission lines and facilities within a stream corridor shall be designed and located to ensure minimum disruption to the functional properties specified under Section 16C.06.05 (Functional Properties) of this title.
(2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy replacement or repair with minimal disturbance to the stream corridor;
(3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is greater, and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis;
(4) Wherever possible, new aboveground installations shall use available, existing bridge and utility locations and stream corridor crossings as opposed to creating new locations and stream corridor crossings;
(5) Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical;
(6) Transmission support structures shall be located clear of high flood velocities, located in areas of minimum flood depth which require the least floodproofing, and shall be adequately floodproofed;
(7) Underground utility transmission lines shall be constructed so they do not alter, intercept or dewater groundwater patterns that support streams, wetlands and hyporheic flow;
(8) All new and replacement water supply systems and wastewater systems within a special flood hazard area must meet the requirements of 16C.05.28.010(2) (re: infiltration or discharge into or out of the system);
(9) Utility transmission lines within the Floodway Fringe shall meet the standards of 16C.05.32.010(2);
(10) Utility transmission lines within the Floodway shall meet the standards of 16C.05.36.010(2).

16C.06.19 Shore Stabilization

(1) The following provisions shall apply to shore stabilization projects:
Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, or facilities, and which stabilization will not jeopardize other upstream or downstream properties;
(2) Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise using the *Washington State Aquatic Habitat Guidelines Program Integrated Streambank Protection Guidelines (ISPG)*, or other accepted guidelines;
(3) Stabilization projects shall be confined to the minimum protective measures necessary to protect the threatened property;
(4) The use of fill to restore lost land may accompany stabilization work, provided no fill is placed waterward of the new ordinary high water mark, finished grades are consistent with

abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with Section 16C.06.21 (Filling);

(5) Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects;

(6) Alternative Preferences. Vegetation, berms, bioengineering techniques, and other nonstructural alternatives which preserve the natural character of the shore shall be preferred over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization. Riprap using rock or other natural materials shall be preferred over concrete revetments, bulkheads, breakwaters, and other structural stabilization;

(7) Applications to construct or enlarge dikes or levees shall meet the requirements of 16C.05.36.010(6);

(8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore;

(9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or other solid construction methods;

(10) All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

16C.06.20 Dredging and Excavation

The following provisions shall apply to dredging and excavation within a designated hydrologically related critical area:

(1) Dredging in surface waters shall be allowed only where necessary because of existing navigation needs, habitat restoration or improvement, maintenance or construction of water-dependent uses;

(2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use;

(3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging;

(4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials;

(5) Entries across shore and wetland edges to accomplish dredging or excavation shall be confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage;

(6) Dredging and excavation shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes;

(7) Dredge spoils are also considered fill, and shall not be deposited within the stream except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.

16C.06.21 Filling

The following provisions shall apply to filling activities within a designated hydrologically related critical area:

(1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses, or an approved reclamation plan under Section 16C.06.23 (Reclamation) or approved compensatory mitigation plan under Section 16C.03.17(13);

(2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter;
(3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods;
(4) Fill in floodplains shall meet the requirements of Chapters 16C.05.20 through 16C.15.072 (Flood Hazard Areas);
(5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities;
(6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality;
(7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes;
(8) Fill and finished surface material shall require low maintenance, provide high resistance to erosion, and prevent or control the migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless the Washington Department of Fish and Wildlife indicates other options are preferred;
(9) Projects that propose fill must acquire the fill onsite (also known as compensatory storage), unless documentation is provided demonstrating that onsite fill is not available or substandard for the project;
(10) Fill should not obstruct, cut off, or isolate stream corridor features.

16C.06.22 Commercial Mining of Gravels

The following provisions shall apply to the commercial mining of gravels within a designated hydrologically related critical area, except that mining may be regulated as Forest Practices under this title, (refer to those relevant sections):

(1) Prior to the authorization of a commercial gravel mining operation, the project proponent shall provide maps to scale which illustrate the following:
  (a) The extent to which gravel excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation;
  (b) The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation;
  (c) The description, location, and extent of any proposed subsequent use that would be different than existing uses.
(2) Wherever feasible, the operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value;
(3) Any surface mining allowed within the floodway shall meet the standards of 16C.05.36.010(1);
(4) Except where authorized by Yakima County in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:
  (a) The excavation zone for the removal of gravels shall be located a minimum of one hundred feet upland from the ordinary high water mark (OHWM) of the stream channel;
  (b) Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM;

(c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.

(5) Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

16C.06.23 Reclamation

The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:

(1) Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation within the stream corridor;

(2) Large-scale projects or projects extending over several months shall be phased to allow reclamation of areas where work or operations have been completed;

(3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season, and other seasonal variables that influence restoration and recovery;

(4) Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas;

(5) Where existing development and construction prevent the return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent stream corridor degradation;

(6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the materials involved;

(7) The replacement or enhancement of vegetation within critical areas or their vegetative buffers shall use naturally occurring, native plant species.

Chapter 16C.07
WETLANDS

Sections:

16C.07.01 Purpose and Intent - The purpose and intent of the provisions protecting wetland critical areas is equivalent to the purpose and intent for Chapter 16C.06.01 (Purpose and Intent).

16C.07.02 Designating and Mapping

(1) Wetlands are those areas that meet the definition found in Section 16C.02.425 as provided in RCW 36.70A.030(21). All areas within Yakima County meeting the wetland definition are hereby designated critical areas and are subject to the provisions of this title. The following clarifications guide the application of the wetland definition:
   (a) Due to the inherent design of most irrigation systems, such systems are reasonably and foreseeably expected to result in some leakage or seepage. Such leakage or seepage is a normal result of utilization of irrigation systems and is deemed for the purposes of this title to be a non-regulated, artificial wetland.

(2) The approximate location and extent of wetlands are shown on maps maintained by Yakima County, which may include information from the National Wetlands Inventory produced by the US Fish and Wildlife Service and soil maps produced by United States Department of Agriculture National Resources Conservation Service that are useful in helping to identify potential wetland areas. These maps are to be used as a guide for Yakima County, project applicants and/or property owners, and may be continuously updated as wetlands are more accurately identified, located and delineated.

16C.07.03 Protection Approach

(1) Wetlands will be protected using the Protection Approach for Hydrologically Related Critical Areas found in 16C.06.02 (Protection Approach), which accommodates issues affecting wetlands.

(2) Wetlands and their functions will be protected using the standards found in the Stream Corridor Chapter (16C.06), which includes provisions to:
   (a) Follow mitigation sequencing as outlined in Section 16C.03.10 (Mitigation Requirements);
   (b) Avoid degrading the functions and values of the wetland and other critical areas;
   (c) Provide a zero net loss of wetland functions and values together with, if reasonably possible through voluntary agreements or government incentives, a gain in functions and values through the long term.

16C.07.04 Wetland Functions and Rating

(1) Wetlands are unique landscape features that are the interface between the aquatic and terrestrial environments. Wetlands provide the following functions:
   (a) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention, and transformation;
   (b) Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;
   (c) Food web and habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.

(2) Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the *Washington State Wetland Rating System for Eastern Washington*, 2014 Update (Ecology Publication #14-06-030 - https://fortress.wa.gov/ecy/publications/SummaryPages/1406030.html) as determined using the appropriate rating forms contained in that publication. These categories are summarized as follows:
   (a) Category I wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible or too difficult to replace within a human lifetime, and provide a high level of functions. Generally, these wetlands are not common and make up a small percentage of the wetlands within Yakima County. The following types of wetlands are Category I:
      i) Alkali wetlands are characterized by the presence of shallow saline water with a high pH and provide the primary habitat for several species of migrant shorebirds and are also heavily used by migrant waterfowl and small alkali bee that is used to pollinate alfalfa and onion for seed production;
      ii) Wetlands of High Conservation Value (formerly called Natural Heritage Wetlands) - Wetlands that are identified by scientists of the Washington Department of Natural Resources Natural Heritage Program as important ecosystems for maintaining plant diversity that represent rare plant communities or provide habitat for rare plants are uncommon in eastern Washington;
      iii) Bogs and Calcareous Fens are peat wetlands sensitive to disturbance and have not been successfully re-created through compensatory mitigation. Bogs are wetlands with peat soils and a low pH, usually a pH <5. Calcareous fens are a type of alkaline, rather than acidic wetland, maintained by groundwater that have a neutral or high pH and high concentrations of calcium and other alkaline minerals;
      iv) Mature and old-growth forested wetlands with native slow growing trees, which include Western Red Cedar (Thuja plicata), Alaska Yellow Cedar (Chamaecyparis nootkatensis), pine spp. (mostly White pine - Pinus monticola), Western Hemlock (Tsuga heterophylla), Oregon White Oak (Quercus garryana) and Englemann Spruce (Picea engelmannii);
      v) Forested wetlands with stands of Aspen contribution as a priority habitat far exceeds the small acreage of these stands and relatively small number of stems (Hadfield & Magelssen, 2004). Furthermore, mature stand of aspen and its underground root system may be difficult to reproduce. Regeneration of aspen stands by sexually produced seeds is an unusual phenomenon (Romme et al., 1997);

vi) Wetlands scoring 22 points or more (out of 27) from the rating of functions are Category I wetlands in the Eastern Washington Wetland Rating System.

(b) Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include:

i) Forested wetlands in the floodplains of rivers are an important resource in the floodplains of rivers, especially in the areas through which the river may flow regularly (often called the channel migration zone). Trees in the Floodplains are critical to the proper functioning and the dynamic processes of rivers. They influence channel form, create pools, riffles, and side channels that are essential habitat for many fish and other aquatic species. These trees also create localized rearing and flood refuge areas, and contribute to the stabilization of the main river channel (NRC, 2002);

ii) Mature and old-growth forested wetlands with fast growing native trees, which include Alders (Red - Alnus rubra, Thinleaf - A. incana ssp. tenuifolia), Cottonwoods (Narrowleaf - Populus angustifolia, Black - P. balsamifera), Willows (Peach-leaf - Salix amygdaloides, Sitka - S. sitchensis, Pacific - S.lasiandra); Quaking Aspen (Populus tremuloides); or Water Birch (Betula occidentalis)

iii) Vernal pools, also called rainpools, are ecosystems located in a landscape with other wetlands retain water until the late spring when they dry out to allow some strictly aquatic organisms to flourish, and provide areas where migrating waterfowl can find food and pair bonding;

iv) Wetlands scoring between 19-21 points (out of 27) on the questions related to the functions present are Category II wetlands in the Eastern Washington Wetland Rating System.

(c) Category III wetlands are often smaller, less diverse or more isolated from other natural resources in the landscape than Category II wetlands. Category III wetlands include:

i) vernal pools that are isolated, and

ii) wetlands with a moderate level of functions (scoring between 16 -18 points) in the Eastern Washington Wetland Rating System and can often be adequately replaced with a well-planned mitigation project.

(d) Category IV wetlands have the lowest levels of functions, (scoring less than 16 points) in the Eastern Washington Wetland Rating System, and are often heavily disturbed. These are wetlands that should be able to be replaced, and in some cases be improved. These wetlands may provide some important functions, and also need to be protected.

(3) The wetland rating categories as described in section (2), above, shall be applied to projects which are submitted on or after the date of adoption of these provisions. The wetlands shall be rated as they exist on the day of project application submission, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. However, illegal modifications to wetlands which have been made since the original adoption of the Critical Areas Ordinance (YCC Title 16A 1995) shall not be considered when rating the wetland. Information regarding the original condition of illegally modified wetlands that can not be discerned from aerial photographs or other reliable information sources, which is needed to complete the *Eastern Washington Wetland Rating* System data sheets, shall use the highest appropriate points value within each missing data field of the rating sheet to complete the rating.

16C.07.05 Compensatory Mitigation Requirements

Projects that propose to compensate for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory mitigation for alterations to wetlands shall provide no net loss of wetland functions and values, and must be consistent with the Mitigation Plan Requirements in Section 16C.03.17 (13) (Compensatory Mitigation Plans). The following guidance documents were developed to assist applicants in meeting the regulations and requirements.

(1) Compensatory mitigation plans must be consistent with *Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance* and *Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans* or as revised, see latest update at http://www.ecy.wa.gov/programs/sea/Wetlands/mitigation/guidance/index.html.

(2) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent with "*Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands – Appendix 8-D- Section 8D.3"* or as revised (Washington State Department of Ecology. Publication number 05-06-008 - https://fortress.wa.gov/ecy/publications/parts/0506008part2.pdf.).

16C.07.06 Wetland Mitigation Banks

(1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
   (a) The bank is certified under RCW 90.84 and its administrative rules WAC 173-700;
   (b) The Administrative Official determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
   (c) The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

(3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

Chapter 16C.08
GEOLOGICALLY HAZARDOUS AREAS

Sections:

16C.08.01 Purpose and Intent

(1) Geologically hazardous areas include those areas susceptible to erosion, sliding, earthquake or other geological events. They pose a threat to the health and safety of the citizens of Yakima County when incompatible development is sited in areas of significant hazard. Some risks due to geologic hazards might be capable of mitigation through engineering, design, or modified construction standards so the level of risk is reduced to an acceptable level. However, when mitigation is not feasible, development within geologically hazardous areas is best avoided.

(2) The purposes of this chapter are to:
   (a) Minimize risks to public health and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas;
   (b) Maintain natural geological processes while protecting existing and new development;
   (c) Establish review procedures for development proposals in geologically hazardous areas.

16C.08.02 Mapping and Designation

(1) Geologically hazardous areas are areas that are susceptible to one or more of the following types of hazards and are designated as critical areas, based on WAC 365-190-120(3):
   (a) Erosion hazards;
   (b) Landslide hazards;
   (c) Oversteepened slope hazards;
   (d) Alluvial fan/flash flooding hazards;
   (e) Avalanche hazards, and;
   (f) Stream undercutting hazards;
   (g) Seismic hazards (referred to below as earthquake hazards); and
   (h) Volcanic hazards;

(2) The approximate location and extent of **Erosion Hazard Areas** are shown on the County's critical area map titled "Erosion Hazard Areas of Yakima County". Erosion hazard areas were identified by using the "*Soil Survey of Yakima County Area, Washington"* and the "*Soil Survey of Yakima Indian Reservation Irrigated Area, Washington, Part of Yakima County*". The analysis utilized the general soil map unit descriptions of severe and very severe hazard of water erosion.

(3) The approximate location and extent of the remaining **Geologically Hazardous Areas** are shown on the County's critical area map titled "Geologically Hazardous Areas of Yakima County". The following geologically hazardous areas, with the corresponding map code in parenthesis, are mapped and classified using the stated criteria based on WAC 365-190-120(3):
   (a) Landslide Hazard Areas (LS) – These include places where landslides, debris flows, or slumps have already occurred. Where sliding is presumed to have occurred within 10,000

years or less is shown as High Risk (LS3) on the map. Slides thought to be older than 10,000 years but still capable of movement are shown as Intermediate Risk (LS2). Areas where slides are absent are unlabeled and combined with other Low Risk areas.

(b) Oversteepened Slope Hazard Areas (OS) - These include areas with slopes steep enough to create potential problems. High risk areas (OS3) have a high potential to fail, and include slopes greater than 40%, and consist of areas of rock fall, creep, and places underlain with unstable materials. Intermediate Risk areas (0S2) are less likely to fail but are still potentially hazardous. This category also includes some slopes between 15 and 40%. Low Risk areas, unlikely to fail, are unlabeled and combined with other Low Risk categories.

(c) Alluvial Fan/Flash Flooding Hazard Areas (AF) - These are areas where flash flooding can occur, and are often associated with inundation by debris from flooding. They include alluvial fans, canyons, gullies, and small streams where catastrophic flooding can occur. They do not include all areas where flash flooding may occur with Yakima County. Flooding may also occur in larger streams and rivers, but these are depicted in the "Flood Insurance Study for the Unincorporated Areas of Yakima County," dated March 2, 1998, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps, and any amendments which may thereafter be made by the Federal Emergency Management Agency, rather than on the Geologically Hazardous Areas Map. High Risk areas (AF3) are those most likely to experience flooding. These areas usually involve larger drainage areas, easily eroded sediments, and steeper gradients. Intermediate Risk areas (AF2) have some potential for flash flooding but involve smaller drainages and flatter slopes. Low Risk areas are where flash flooding is unlikely, are unlabeled and combined with other Low Risk areas on the map.

(d) Avalanche Risk Hazard Areas (AR) - Areas of avalanche hazards are limited (within the mapped boundaries) to areas near the Cascade Crest. High Risk areas (AF3) are those in areas of high snowfall where avalanche scars are visible and slopes are steep to moderately steep. These areas could also be rated 0S3. Intermediate Risk areas (AF2) are usually adjacent to AF3 areas but where vegetation is still in place and slopes are moderate. AF2 and AF3 areas are mapped on the basis of aerial photography and observed scars. Climatic data (snowfall, wind direction, etc) are necessary for more detailed mapping. Low Risk areas, where avalanches are unlikely, are unlabeled and combined with other Low Risk geologic hazards.

(e) Stream Undercutting Hazard Areas (SU) - These areas are confined to banks near main streams and rivers where undercutting of soft materials may result. High Risk areas (SU3) include steep banks of soft material adjacent to present stream courses. Intermediate Risk areas (SU2) are banks along the edge of a flood plain but away from the present river course. Low Risk areas are unlabeled and combined with other Low Risk areas on the maps.

(f) Earthquake Activity Hazard Areas (EA) - Recorded earthquake activity in Yakima County is mostly marked by low magnitude events and thus low seismic risk. One exception is an area along Toppenish Ridge where Holocene faulting may have produced earthquakes of as much as magnitude 7. Zones of surficial fault scarps are shown on High Risk areas (EA3) while areas adjacent to the scarps are assigned Intermediate Risk (EA2). The rest of the county is Low Risk, are unlabeled, and combined with other low risk hazards.

(g) Suspected Geologic Hazard Areas (SUS) – These are areas for which detailed geologic mapping is lacking but preliminary data indicate a potential hazard. No risk assessment (1-2-3) is given for these areas. Most are probably OS or LS hazards.

(h) Risk unknown hazard areas (UNK) - In these areas geologic mapping is lacking or is insufficient to make a determination. All of these areas are associated with other classified geologic hazards, and most are located in remote areas of Yakima County.

(4) Volcanic Hazard Areas are not mapped but are defined as areas subject to pyroclastic (formed by volcanic explosion) flows, lava flows and inundation by debris flows, mudflows or related flooding resulting from volcanic activity. Volcanic Hazard Areas in Yakima County are limited to pyroclastic (ash) deposits. While Yakima County contains a portion of Mt Adams and is in close proximity to Mt Rainer, and Mt St. Helens, the threat of volcanic hazards is minimal and limited to ash deposition. The more devastating effects of volcanic activity such as lava flows, and lahars (volcanic landslide or mudflow) are not possible due to intervening ridges. No specific protection requirements are identified for volcanic hazard areas.

(5) This chapter does not imply that land outside mapped geologically hazardous areas or uses permitted within such areas will be without risk. This chapter shall not create liability on the part of Yakima County, any officer, or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

16C.08.03 Geologically Hazardous Areas Protection Approach

(1) Erosion Hazard Areas – Protection measures for erosion hazard areas will be accomplished by implementing the regulatory standards for erosion and drainage control required under YCC Title 13 (Building Code). Any future stormwater program erosion control measures that may be formally adopted by the Board of County Commissioners shall supersede YCC Title 13 erosion control requirements. Standards to meet YCC Title 13 requirements can be met by the application of the Best Management Practices (BMPs) in the Yakima Regional Stormwater Manual (WDOE Publication number 04-10-076) or equivalent manual adopted by Yakima County, or any other approved manual deemed appropriate by the Building Official, including but not limited to applicable Natural Resource Conservation Service (NRCS) Field Office Technical Guide (FOTG) BMP's and the Washington State Department of Transportation Highway Runoff Manual. Application of the Environmental Protection Agency (EPA) "Construction Rainfall Erosivity Waiver" is at the discretion of the Building Official on a case-by-case basis.

(2) Landslide Hazard Areas - Protection measures for landslide hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

(3) Alluvial Fan/Flash Flooding Hazard Areas - Protection measures for alluvial fan/flash flooding hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; Appendix J Grading; and, Flood Resistant Design and Construction (ASCE-24-98)).

(4) Stream Undercutting Hazard Areas - Protection measures for stream undercutting hazard areas will be accomplished by Critical Areas review for flood hazards, streams, and Shoreline jurisdiction, in addition to implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (Flood Resistant Design and Construction (ASCE-24-98)).

(5) Avalanche Hazard Areas - Protection measures for avalanche hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

(6) Oversteepened Slope Hazard Areas - Protection measures for oversteepened slope hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

(7) Earthquake/Seismic Hazard Area Protection Standards - Protection measures for earthquake/Seismic hazard areas will be accomplished by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

(8) Suspected Geologic Hazard Areas and Risk Unknown Hazard Areas - Protection measures for suspected geologic hazard areas and risk unknown hazard areas will be accomplished through the review process of 16C.08.04 (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of 16C.08.05 (General Protection Requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).

16C.08.04 Development Review Procedure for Geologically Hazardous Areas

(1) The Administrative Official shall make a determination of hazard to confirm whether the development or its associated facilities (building site, access roads, limits of grading/ excavation/ filling, retaining walls, septic drainfields, landscaping, etc.):
   (a) are located within a mapped geologically hazardous area;
   (b) are within 500 feet of a mapped landslide hazard area;
   (c) are abutting, or adjacent to any other mapped geologically hazardous area and may result in or contribute to an increase in hazard, or pose a risk to life and property on or off the site;
   (d) are located within a distance from the base of an adjacent landslide hazard area that has been determined to be within the runout area of said hazard area;
   (e) are located within the potential run-out path of a mapped avalanche hazard.

(2) Developments that receive an affirmative determination of hazard by the Administrative Official under (1) above, must conduct a geologic hazard report as provided in 16C.03.18(4) (Supplemental Report Requirements – Geologically Hazardous Areas), which may be part of a geo-technical report required under additional review below.

(a) If the geologic hazard report determines no hazard exists or that the project area lies outside the hazard, then no Geologic Hazard review is needed.
(b) The Administrative Official is authorized to waive further geologic hazard review for oversteepened slope hazards on a determination that the hazards identified in the geologic hazard report will be adequately mitigated under grading or construction permits.

(3) Developments that receive an affirmative determination of hazard, but do not meet the provisions of paragraph 2a or 2b above, must:
(a) Obtain a Critical Areas Development Authorization under 16C.03 (Application and Review Procedures);
(b) Submit a geo-technical report that is suitable for obtaining the grading and construction permits that will be required for development. The geo-technical report should incorporate the submitted assessment, include the design of all facilities and include a description and analysis of the risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other critical areas, and;
(c) Be consistent with the General Protection Requirements of Section 16C.08.05 (General Protection Requirements).

16C.08.05 General Protection Requirements

(1) Grading, construction, and development and their associated facilities shall not be located in a geologically hazardous area, or any associated setback for the project recommended by the geo-technical report, unless the applicant demonstrates that the development is structurally safe from the potential hazard, and that the development will not increase the hazard risk onsite or off-site.

(2) Development shall be directed toward portions of parcels, or parcels under contiguous ownership, that are at the least risk of hazard in preference to lands with higher risk, unless determined to be infeasible in the geo-technical report.

(3) The geo-technical report shall recommend methods to ensure the information and education about the hazard and any recommended buildable area for future landowners over the long term.

(4) The applicable requirements of grading and construction permits for developments in hazardous areas must be included in the development proposal and geo-technical report.

Chapter 16C.09
CRITICAL AQUIFER RECHAGE AREAS (CARAs)

Sections:

16C.09.01 Purpose and Intent

(1) The Growth Management Act (RCW 36.70A) requires local jurisdictions to protect, through designation and protection, areas with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water. These areas are referred to as Critical Aquifer Recharge Areas (CARAs) in this title.

(2) Potable water is an essential life sustaining element. Much of Yakima County's drinking water comes from groundwater supplies. Once groundwater is contaminated it can be difficult, costly, and sometimes impossible to clean up. In some cases, the quality of groundwater in an aquifer is inextricably linked to its recharge area

(3) The intent of this chapter is to:

(a) Preserve, protect, and conserve Yakima County's CARAs from contamination;

(b) Establish a protection approach that emphasizes the use of existing laws and regulations, and minimizes the use of new regulations.

(4) It is not the intent of this ordinance to:

(a) Regulate everyday activities (including the use of potentially hazardous substances that are used according to State and Federal regulations and according to label specifications);

(b) Enforce or prevent illegal activities;

(c) Regulate land uses that use or store small volumes of hazardous substances (including in-field agricultural chemical storage facilities, which do not require permits, or are already covered under existing state, federal, or county review processes and have detailed permit review);

(d) Establish additional review for septic systems, which are regulated by the Washington Department of Health and Yakima County Health District as mandated by WAC 246-270, 246-271, 246-272, 246-272A, 246-272B, 246-272C and 246-273;

(e) Establish additional review for stormwater control, which are covered under existing County YCC Title 12.10 as required by Washington State Department of Ecology's Eastern Washington Phase II Municipal Stormwater Permit, or;

(f) Require review for uses that do not need building permits and/or zoning review.

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

16C.09.02 Designation

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

(1) Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten-year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

(2) Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.

(3) Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.

(4) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.

(5) Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.

(6) Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology.

16C.09.03 Mapping

(1) **Mapping Methodology** – The CARAs are depicted in the map titled "Critical Aquifer Recharge Areas of Yakima County". The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology - "Guidance Document" (https://fortress.wa.gov/ecy/publications/SummaryPages/0510028.html- Publication 05-10-028). This map depicts the general location of the critical aquifer recharge areas designated in YCC 16C.09.02. Yakima County has developed a GIS database of the CARA map that shows the location and extent of critical aquifer recharge areas. This database will be used by the County to determine whether proposed developments could potentially impact CARA. All applications for development within the County that are located within a mapped CARA will be required to follow the performance standards of this chapter. The CARA map estimates areas of moderate, high and extreme susceptibility to contamination, in addition to wellhead protection areas. To characterize hydrogeologic susceptibility of the recharge area to contamination, the GIS analysis used the following physical characteristics:

   (a) Depth to ground water;

   (b) Soil (texture, permeability, and contaminant attenuation properties);

   (c) Geologic material permeability;

   (d) Recharge (amount of water applied to the land surface, including precipitation and irrigation).

(2) **Wellhead Protection Areas** - The CARA map includes those Wellhead Protection Areas for which the County has maps. Wellhead Protection Areas are required for all Class A public water systems in the State of Washington. The determination of a wellhead protection area is based upon the time of travel of a water particle from its source to the well. Water purveyors collect site specific information to determine the susceptibility of the water source to surface sources of contamination. Water sources are ranked by the Washington State Department of Health with a high, moderate or low susceptibility to surface contamination. Wellhead protection areas are defined by the boundaries of the ten (10) year time of ground water travel, in accordance with WAC 246-290-135. For purposes of this chapter, all wellhead protection areas shall be considered highly susceptible.

16C.09.04 Submittal Requirements.

(1) Applications for any development activity or division of land which requires review by Yakima County and which is located within a mapped Critical Aquifer Recharge Area or Wellhead Protection Area shall be reviewed by the Administrative Official to determine whether hazardous materials (see definitions) will be used, stored, transported, or disposed of in connection with the proposed activity. If there is insufficient information to determine whether hazardous materials will be used, the Administrative Official may request additional information, in addition to the submittal requirements outlined in 16C.03.

(2) The Administrative Official shall make the following determination:

(a) No hazardous materials are involved.

(b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance.

(c) Hazardous materials are involved and the proposal has the potential to significantly impact Critical Aquifer Recharge and Wellhead Protection Areas; however, sufficient information is not available to evaluate the potential impact of contamination. The County may require a Hydrogeologic Report to be prepared by a qualified groundwater scientist in order to determine the potential impacts of contamination on the aquifer.

16C.09.05 Performance Standards – General Requirements.

(1) Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

(2) The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Yakima County Health District.

16C.09.06 Performance Standards – Specific Uses.

(1) Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

(a) Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

(i) Prevent releases due to corrosion or structural failure for the operational life of the tank;

(ii) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

(iii) Use material in the construction or lining of the tank that is compatible with the substance to be stored.

(b) Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

(i) Not allow the release of a hazardous substance to the ground, groundwaters, or surface waters;

(ii) Have a primary containment area enclosing or underlying the tank or part thereof; and

(iii) Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

(2) Vehicle Repair and Servicing.

(a) Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

(b) No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity.

(3) Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.

(4) Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology and Health.

(a) Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The State Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).

(b) Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

(5) Proposed new groundwater uses must provide evidence that the proposed water source is physically and legally available and meets drinking water standards.

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

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

(1) Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste and inert and demolition waste landfills;

(2) Underground Injection Wells. Class I, III and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;

(3) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

(4) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;

(5) Mining. Hard rock; and sand and gravel mining, unless located within the mineral resource designation; and

(6) Other Prohibited Uses or Activities.

(a) Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;

(b) Activities that would significantly reduce the recharge to aquifers that are a source of significant base flow to a regulated stream.

Chapter 16C.11
Upland Wildlife Habitat Conservation Areas

Sections:

16C.11.010 Purpose and Intent

(1) Wildlife habitat conservation means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability. Wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs (WAC 365-190-130(1)).

(2) It is the intent of these provisions to classify seasonal ranges and habitat elements with which federal and state listed endangered, threatened and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(3) It is the purpose of these provisions to designate, protect, and conserve natural habitats of upland wildlife species.

16C.11.020 Protection Approach

(1) To maintain viable populations of fish and wildlife species, there must be adequate environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals at a variety of scales across the landscape. Key factors affecting habitat quality include fragmentation, the presence of essential resources such as food, water, nest building materials, the complexity of the environment, and the presence or absence of predator species and diseases. As a method of linking large habitat areas, migration corridors offer a means by which to connect publicly protected lands and other intact habitat areas. Yakima County protects habitat for upland species using the Upland Wildlife Habitat Conservation Area and associated protections measures described below.

(2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land. Conservation of wildlife habitat is among the various goals for these public lands. Yakima County's approach to protecting all wildlife habitat types on public lands is to rely on the management of these lands by the responsible entity (i.e. US Forest Service, US Bureau of Land Management, US Department of Defense, Washington Department of Fish and Wildlife,

Washington Department of Natural Resources, Yakima Nation, etc.). The protection of Larch Mountain Salamander *(Plethodon larselli)* (State Sensitive, Federal Species of Concern) and Spotted Owl *(Strix occidentalis)* (State Endangered, Federal Threatened) habitat is accomplished through this approach, since their habitat of primary association is located within Federal ownership.

(3) To aid in upland wildlife protection on private lands, Yakima County will utilize current WDFW data and maps to identify wildlife habitat. Comparison of the map to public lands shows that a small percentage of the mapped area is within private ownership. An analysis of the privately owned lands showed that they are largely in remote areas that are undeveloped with no cultivated agriculture. The predominate land use on these private lands is forest and rangeland. Consequently, part of Yakima County's approach to protect upland wildlife on private land is to rely on the large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum) and Agriculture (40 acre minimum) zoning districts.

Through the wildlife habitat analysis, habitat for listed state and federal threatened, endangered, and sensitive species was assessed and incorporated for upland species. Consequently, Yakima County's approach to protect habitat for listed state and federal threatened, endangered, and sensitive upland species is to require approval of a standard development permit, the submittal of a habitat assessment from a qualified professional, and where necessary, development of a management plan consistent with state and/or federal guidelines as outlined in Section 16C.11.060 and 16C.11.070 below. Where appropriate, agencies will be consulted early in the process to determine potential impacts from the development on wildlife habitat. Protection measures for Bull Trout *(Salvelinus confluentus)* (State Candidate, Federal Threatened) and Steelhead *(Oncorhynchus mykiss)* (State Candidate, Federal Threatened) are accomplished by the standards in Chapter 16C.06.

16C.11.030 Functional Properties

Wildlife habitat consists of the arrangement of food, water, cover, and space required to meet the biological needs of an animal. Different wildlife species have different requirements, and these requirements vary over the course of a year. Wildlife habitat generally includes one or more of the following functional properties:

(a) Reproduction and/or nesting;
(b) Resting and refuge;
(c) Foraging for food;
(d) Dispersal and migration.

Designation and Mapping

16C.11.040 Upland Wildlife Habitat Conservation Areas

(1) Upland Wildlife Habitat Conservation Areas are those areas within which state or federally designated endangered, threatened, or sensitive species have a primary association and are designated as critical areas. State listed species are those native fish and wildlife species legally designated as Endangered (WAC 232-12-014), Threatened (WAC 232-12-011) or Sensitive (WAC 232-12-011) by the Washington Fish and Wildlife Commission. Federal listed Threatened, Endangered or Sensitive species means all species of wildlife listed as such by the United States Secretary of the Interior or Commerce.

(2) Upland Wildlife Habitat Conservation Areas include State Natural Area Preserves and Natural Resource Conservation Areas.

(3) Upland Wildlife Habitat Conservation Areas include Species and Habitats of Local Importance. These are habitats or species that due to their declining population, sensitivity to habitat manipulation or other values make them important on a local level. Habitats of Local Importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(a) Species and Habitats of Local Importance may be identified, for protection under this title. State or local agencies, individuals or organizations may identify and nominate for consideration specific species and habitats, or a general habitat type, including streams, ponds or other features. The WDFW Priority Habitat and Species list for Yakima County is included in this Title as Appendix B.

(b) Review of a Species and/or Habitat of Local Importance application is a legislative action, and shall be processed during the Comprehensive Plan amendment cycle.

(c) Species and/or Habitat of Local Importance applications shall be docketed for official action with the Planning Commission in accordance with Section 16B.10.090 (Development Regulation Amendments) with no fee requirements.

(d) The Planning Commission may convene a best available science committee to ensure the Species and/or Habitat of Local Importance application conforms to RCW 36.70A.172 and WAC 365-195-900 through WAC 365-195-925.

(e) Species and/or Habitat of Local Importance are adopted as Appendix B of this title.

(f) Species and/or Habitat of Local Importance applications shall be reviewed for conformance with subsections (g) and (h) below.

(g) Applicants for Species and/or Habitat of Local Importance shall present evidence concerning the criteria set forth in sub-section (h) below, including maps to illustrate the proposal and habitat management recommendations for use in the administration of this chapter, and/or:

(h) The review of nominated habitats, and habitats for species of local importance shall consider the following,

(i) A seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain or reproduce over the long term;

(ii) Areas of high relative density or species richness, breeding habitat, winter range, and movement corridors;

(iii) Habitat with limited availability or high vulnerability to alteration;

(iv) Whether these habitats are already identified and protected under the provisions of this or other county ordinances or state or federal law.

16C.11.050 Mapping

(1) The approximate location and extent of upland wildlife habitat conservation areas for, Endangered, Threatened and Sensitive species are shown on the County's critical area map titled, "Upland Wildlife Habitat Conservation Areas of Yakima County". This map is to be used as a guide for the county, project applicants and/or property owners, and may be updated as more detailed data becomes available. This map is an initial reference and does not provide a final critical area designation. Wildlife resource agencies shall be consulted

for their expertise on location of habitat conservation areas when insufficient information exists for an area.

(2) The Upland Wildlife Habitat Conservation Area map utilized GAP (Gap Analysis Project) and Department of Fish and Wildlife data. GAP data is derived from satellite imagery and modeling of vegetation and species presence. The wildlife habitat analysis methodology was chosen to protect wildlife from a regional perspective rather than a species-specific perspective, to identify areas of high biodiversity for long-term species survival. The methodology:
   (a) Uses the richest habitat areas;
   (b) Includes some habitat for all species;
   (c) Focuses on large habitat areas that are most remote from human development;
   (d) Uses publicly owned lands as much as possible;
   (e) Provides corridor links between blocks of habitat areas using streams, and steep ridge slopes;
   (f) Considers WDFW Priority Habitat and Species and Wildlife Heritage data to help test accuracy, and;
   (g) Covers threatened endangered and sensitive species on private land.

16C.11.060 Permit and Critical Areas Report Requirement

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

(2) In addition to the general critical area report requirements of Section 16C.03.17, habitat assessments and habitat management plans must be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant species and habitat. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(3) If the habitat assessment determines that such species or habitat area is present on site, and are likely to be impacted by the development proposal, then a standard development permit and management plan are required.

(4) If a standard development permit and management plan are required, as determined by the habitat assessment, it shall follow management recommendations published by federal or state agencies developed for species or habitats located on or adjacent to the project area. Management plans developed by an independent third party shall be provided for review by the Department of Fish and Wildlife or the responsible federal agency. The Administrative Official shall consult with the appropriate agency and consider their comments through the review process.

16C.11.070 Upland Wildlife Habitat Conservation Area Development Standards

Projects located within an Upland Wildlife Habitat Conservation Area as designated in Section 16C.11.040 shall meet the following standards listed below, rather than the development standards

in 16C.06.10 through 16C.06.23 for Hydrologically Related Critical Areas, unless review is also needed for a Hydrologically Related Critical Areas.

Projects shall be designed using management recommendations established for the species or habitat by federal and state agencies, or those adopted for Species and Habitats of Local Importance by Yakima County. The department shall consider the extent such recommendations are used in its decision on the proposal, and may consider recommendations and advice from the agencies with expertise.

YAKIMA COUNTY
CRITICAL AREAS ORDIANCE
Appendix A
Designated Type 2 Stream Corridors

The following stream reaches within Yakima County are designated Type-2 Streams under the Critical Areas Ordinance.

FOUNDATION CREEK:	From the mouth of Hacket Canyon (Sec. 13, T12N, R14E) downstream to the North Fork Ahtanum Creek.
LITTLE RATTLESNAKE CREEK:	From the Wenatchee National Forest boundary (Sec. 25-T15N-R15E) downstream to mouth at Rattlesnake Creek (Sec. 3-T15N-R15N).
MIDDLE FORK AHTANUM CREEK:	From the north boundary of Sec, 25, T12N, R14E, downstream to the North Fork Ahtanum.
MULE DRY CREEK:	From the east boundary of Sec. 24, T9N, R20E, downstream to Satus Creek.
NASTY CREEK:	From the east boundary of Sec. 32, T13N, R15E, downstream to the North Fork Ahtanum Creek.
NILE CREEK:	From the east boundary of Sec. 31, T16N, R15E, downstream to the Naches River.
NORTH FORK AHTANUM CREEK:	From east boundary of Sec. 20, T12N, R14E, downstream to shoreline jurisdiction (Sec. 22, T12N, R14E).
REYNOLDS CREEK:	From the east boundary of Sec. 16, T13N, R15E, to South Fork Cowiche Creek (Sec. 18, T13N, R16E).
ROCK CREEK:	From the south boundary of Sec. 8, T16N, R15E, downstream to the Naches River.
SOUTH FORK COWICHE CREEK:	From the north boundary of Sec. 29, T13N, R15E, downstream to shoreline jurisdiction (Sec. 33, T14N, R16E).

SOUTH FORK AHTANUM CREEK:	From the east boundary of Sec. 32, T12N, R15E, downstream to shoreline jurisdiction (the NE 1/4 of the NW 1/4 of Sec. 26, T12N, R15E).
WENAS CREEK:	From the base of the Wenas Dam Sec.2-T15N-R17E downstream to shoreline jurisdiction of the Yakima River.
WIDE HOLLOW CREEK:	From South 96th Ave. downstream to the municipal boundary for the City of Yakima (Sec.34-T13N-R18E).
WILDCAT CREEK:	From the Wenatchee National Forest boundary (Sec. 25, T14N, R13E) downstream to the Tieton River.

YAKIMA COUNTY
CRITICAL AREAS ORDINANCE
Appendix B
Priority Habitat and Species (PHS)

** Important Note **

These are the species and habitats identified for Yakima County. This list of species and habitats was developed using the distribution maps found in the Priority Habitat and Species (PHS) List (see http://wdfw.wa.gov/conservation/phs/). Species distribution maps depict counties where each priority species is known to occur as well as other counties where habitat primarily associated with the species exists. Two assumptions were made when developing distribution maps for each species:

1. There is a high likelihood a species is present in a county, even if it has not been directly observed, if the habitat with which it is primarily associated exists.
2. Over time, species can naturally change their distribution and move to new counties where usable habitat exists.

Distribution maps in the PHS List were developed using the best information available. As new information becomes available, known distribution for some species may expand or contract. WDFW will periodically review and update the distribution maps in PHS list.

Priority Habitats	
Habitat	**Priority Area**
Aspen Stands	Pure or mixed stands greater than 1 acre
Biodiversity Areas & Corridors	
Inland Dunes	
Old-Growth/Mature Forest	
Oregon White Oak Woodlands	Stands greater than 5 acres in size
Shrub-Steppe	
Riparian	
Freshwater Wetlands & Fresh Deepwater	
Instream	
Priority Habitat Features	
Habitat	**Priority Area**
Caves	
Cliffs	Greater than 25 feet high and occurring below 5000 ft.
Snags and Logs	
Talus	

Fish			
Species	**Priority Area**	**State Status**	**Federal Status**

Pacific Lamprey	Any Occurrence		Species of Concern
River Lamprey	Any Occurrence	Candidate	Species of Concern
White Sturgeon	Any Occurrence		
Leopard Dace	Any Occurrence	Candidate	
Umatilla Dace	Any Occurrence	Candidate	
Mountain Sucker	Any Occurrence	Candidate	
Bull Trout	Any Occurrence	Candidate	Threatened
Chinook Salmon	Any Occurrence		
Coho	Any Occurrence		
Kokanee	Any Occurrence		
Rainbow Trout/ Steelhead	Any Occurrence	Candidate *	Threatened *
Sockeye Salmon	Any Occurrence		
Westslope Cutthroat	Any Occurrence		
		* Steelhead only	* Steelhead only

4062

Reptiles and Amphibians			
Species	**Priority Area**	**State Status**	**Federal Status**
Cascade Torrent Salamander	Any occurrence	Candidate	
Larch Mountain Salamander	Any occurrence	Sensitive	Species of Concern
Van Dyke's Salamander	Any occurrence	Candidate	Species of Concern
Columbia Spotted Frog	Any occurrence	Candidate	
Western Toad	Any occurrence	Candidate	Species of Concern
Common Sharp-tailed Snake	Any occurrence	Candidate	Species of Concern
Striped Whipsnake	Any occurrence	Candidate	
Sagebrush Lizard	Any occurrence	Candidate	Species of Concern

4063

Birds			
Species	**Priority Area**	**State Status**	**Federal Status**
Western grebe	Regular concentrations, Breeding areas, Migratory stopovers, Regular occurrences in winter	Candidate	
E WA breeding concentrations of: Grebes, Cormorants	Breeding areas		

E WA breeding: Terns	Breeding areas		
Black-crowned Night-heron	Breeding areas		
Great Blue Heron	Breeding areas		
Cavity-nesting ducks: Wood Duck, Barrow's Goldeneye, Common Goldeneye, Bufflehead, Hooded Merganser	Breeding areas		
Harlequin Duck	Breeding areas		
Tundra Swan	Regular concentrations		
Waterfowl Concentrations	Significant breeding areas, Regular concentrations in winter		
Bald Eagle	Breeding areas, Communal roosts, Regular concentrations	Sensitive	Species of Concern
Ferruginous Hawk	Breeding areas, including alternate nest sites. If breeding area is not known, approximate with a 7.0 km2 (4.35 mi2) area around known nest sites, foraging areas	Threatened	Species of Concern
Golden Eagle	Breeding and foraging areas	Candidate	
Northern Goshawk	Breeding areas, including alternate nest sites, post-fledging foraging areas	Candidate	Species of Concern
Peregrine Falcon	Breeding areas, Regular occurrence	Sensitive	Species of Concern
Prairie Falcon	Breeding areas		
Chukar	Regular concentrations in WDFW primary		

	management zones for Chukar		
Ring-necked Pheasant	Self-sustaining birds observed in regular concentrations in WDFW's eastern Washington Primary Management Zone for pheasant		
Sage Grouse	Breeding areas, leks, Regular concentrations	Threatened	Candidate
Sooty Grouse	Breeding areas, Regular concentrations		
Wild Turkey	Regular concentrations and roosts in WDFW's Primary Management Zones for wild turkeys		
Sandhill Crane	Breeding areas, Regular concentrations, migration staging areas	Endangered	
E WA breeding occurrences of: Phalaropes, Stilts and Avocets	Breeding areas		
Band-tailed Pigeon	Regular concentrations, Occupied mineral sites		
Yellow-billed Cuckoo	Any occurrence	Candidate	Candidate
Burrowing Owl	Breeding areas, foraging areas, Regular concentrations	candidate	Species of Concern
Flammulated Owl	Breeding sites, Regular occurrences	Candidate	
Spotted Owl	Any occurrence	Endangered	Threatened

Vaux's Swift	Breeding areas, Communal roosts	Candidate	
Black-backed Woodpecker	Breeding areas, Regular occurrences	Candidate	
Lewis' Woodpecker	Breeding areas	Candidate	
Pileated Woodpecker	Breeding areas	Candidate	
White-headed Woodpecker	Breeding sites, Regular occurrences	Candidate	
Loggerhead Shrike	Regular occurrences in breeding areas, Regular concentrations	Candidate	
Sage Sparrow	Breeding areas. Regular occurrences in suitable habitat during the breeding season	Candidate	
Sage Thrasher	Breeding areas. Regular occurrences in suitable habitat during the breeding season	Candidate	

4064

Mammals			
Species	**Priority Area**	**State Status**	**Federal Status**
Merriam's Shrew	Any occurrence	Candidate	
Preble's Shrew	Any occurrence	Candidate	Species of Concern
Roosting Concentrations of: Big-brown Bat, Myotis bats, Pallid Bat	Regular concentrations in naturally occurring breeding areas and other communal roosts		
Townsend's Big-eared Bat	Any occurrence	Candidate	Species of Concern
Black-tailed Jackrabbit	Regular concentrations	Candidate	
White-tailed Jackrabbit	Regular concentrations	Candidate	

Western Gray Squirrel	Any occurrence	Threatened	Species of Concern
Townsend's Ground Squirrel	Breeding Area, Occurrence, Regular concentrations	Candidate	Species of Concern
Cascade Red Fox	Any occurrence	Candidate	
Fisher	Any occurrence	Endangered	Candidate
Marten	Regular occurrence		
Wolverine	Any occurrence	Candidate	
Bighorn Sheep	Breeding areas, Regular concentrations		
Columbian Black-tailed Deer	Regular concentrations, Migration corridors		
Mountain Goat	Breeding areas, Regular concentrations		
Northwest White-tailed Deer	Migration corridors, Regular concentrations in winter		
Elk	Calving Areas, Migration Corridors, Regular concentrations in Winter and in foraging areas along coastal waters		
Rocky Mountain Mule Deer	Breeding areas, Migration corridors, Regular concentrations in winter		

4065

Invertebrates			
Species	**Priority Area**	**State Status**	**Federal Status**
Mardon Skipper	Any occurrence	Endangered	Species of Concern
Silver-bordered Fritillary	Any occurrence	Candidate	

4066