

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 13-2007

**IN THE MATTER OF ADOPTING ORDINANCE NO. 13-2007 PERTAINING TO
GROWTH MANAGEMENT PLANNING AND IMPLEMENTATION, ADOPTING A
NEW YAKIMA COUNTY CODE, TITLE 16C, CRITICAL AREAS ORDINANCE OF
YAKIMA COUNTY;**

WHEREAS, RCW 36.70A, the Growth Management Act (GMA), requires all local governments to designate Critical Areas, and develop regulations for their protection (RCW 36.70A.170 (1)(d), RCW 36.70A.060 (2)). The GMA defines Critical Areas as (1) wetlands, (2) areas with a critical recharging effect on aquifers used for potable water, (3) fish and wildlife habitat conservation areas, (4) frequently flooded areas, and (5) geologically hazardous areas (RCW 36.70A.030(5)); and

WHEREAS, pursuant to RCW 36.70A.060, the Board of Yakima County Commissioners (Board) adopted Title 16A, the Critical Areas Ordinance (CAO), on July 12, 1994 (Ordinance No. 3 -1994); and

WHEREAS, the Board amended and re-enacted the CAO, on October 1, 1995 (Ordinance No. 8-1995) based on a compliance hearing order from the Eastern Washington Growth Management Hearings Board (Case No. 94-1-0021); and

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

WHEREAS, WAC 365-190-080 establishes minimum guidelines for what Yakima County must include in protecting each critical area; and

WHEREAS, the GMA (RCW 36.70A.172) also requires Yakima County to include the review of Best Available Science (BAS) and give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries in its review of its development regulations; and

WHEREAS, Substitute Senate Bill 5248 was signed by the Governor on May 8th, 2007 and becomes a part of the Growth Management Act (GMA). Section 2 of the bill requires that for the period beginning May 1, 2007, and concluding July 1, 2010, counties and cities shall defer amending or adopting critical areas ordinances as they specifically apply to agricultural activities on agricultural and rural lands; and

WHEREAS, nothing in Substitute Senate Bill 5248 nullifies critical areas ordinances adopted prior to May 1, 2007, to comply with the GMA; and

46 WHEREAS, nothing in Substitute Senate Bill 5248 applies to the GMA compliance
47 requirements pertaining to critical areas not associated with such agricultural activities, or limits
48 counties or cities from enacting voluntarily measures that protect critical areas associated with
49 agricultural activities. Counties and cities that defer amending their critical areas ordinances
50 must review and revise these ordinances as they apply to such agricultural activities by
51 December 1, 2011; and

52
53 WHEREAS, the GMA (36.70A.020) also requires Yakima County to consider and balance the
54 13 goals of the Act; and

55
56 WHEREAS, staff concluded a review of the best available science and released a draft document
57 in March of 2004; and

58
59 WHEREAS, staff and the Planning Commission (PC) included the best available science in
60 drafting revisions to the CAO; and

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62 WHEREAS, Yakima County, starting in March of 2004, began an extensive public participation
63 process to solicit suggestions from the public for changes to Yakima County's Comprehensive
64 Plan 2015 (**Plan 2015**) and the CAO, which included thirty-six meetings with interest groups,
65 five public meetings, six city and town elected official meetings (Countywide Planning Policy
66 Committee), eight city and town staff meetings, and thirty-six PC Study Sessions; and

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68 WHEREAS, the PC held a public hearing on January 20, 2005 at which it considered draft
69 revisions to the Goals and Policies of the Natural Settings Element of **Plan 2015**; and

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71 WHEREAS, on January 20, 2005 the PC adopted a motion requesting the Board to remand the
72 draft revisions of **Plan 2015** Goals and Policies for further study and to allow simultaneous
73 consideration of both a revised CAO and the related **Plan 2015** Goals and Policies; and

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75 WHEREAS, in order to garner public participation and input on the draft CAO, the PC held eight
76 Roundtable sessions with potentially affected interests, including agricultural, development, and
77 environmental interests, in addition to tribal, state and local governments; and

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79 WHEREAS, the final Roundtable sessions were held on a complete draft of the CAO on June 19
80 and 20, 2006; and

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82 WHEREAS, the PC conducted a duly advertised and noticed open record public hearing on the
83 proposed amendments to the CAO and **Plan 2015** on December 6, 2006; and

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85 WHEREAS, the PC, after providing all persons a full and complete opportunity to be heard,
86 closed the testimony on December 08, 2006; and

87
88 WHEREAS, the PC deliberated on the matter on December 12, 2006, January 3, 4, 10, 11 and
89 31, 2007 and on February 28, 2007; and

90
91 WHEREAS, the PC, having carefully considered the written and oral testimony of the public,
92 agencies, recommendations from staff, changes proposed by commission members in its
93 deliberations, did revise the proposed CAO; and

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95 WHEREAS, on February 28, 2007, the Planning Commission, by motion and vote, unanimously
96 approved its recommendation that the Board adopt and implement the revised CAO and **Plan**
97 **2015** Goals and policies; and

98
99 WHEREAS, the PC presented its Findings and Recommendation to the Board at a properly
100 advertised study session on March 21, 2007; and

101
102 WHEREAS, the Yakima County SEPA Official issued a Determination of Nonsignificance
103 (DNS) for the proposed edits to the CAO and the proposed amendments to **Plan 2015** on
104 November 22, 2006, which included a comment period ending December 8, 2006 and a retention
105 notice on March 7, 2007; and

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107 WHEREAS, the Board conducted a duly advertised and noticed open record public hearing on
108 the proposed amendments to the CAO and **Plan 2015** on July 30 and 31, 2007 to receive written
109 and oral testimony on the Planning Commission's Findings and Recommendation; and

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111 WHEREAS, all persons desiring to speak or submit evidence for the record were given the
112 opportunity to do so; and

113
114 WHEREAS, the Board held the public record open until Wednesday, August 1, 2007; and

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116 WHEREAS, the board directed staff to create a "BOCC Deliberations Draft", which all page and
117 line references during deliberations refer to; and

118
119 WHEREAS, the Board began its legislative deliberations and held such deliberations on August
120 7, 9, 13 and 16, 2007 and October 16, 2007; and

121
122 WHEREAS, RCW 36.70.630 requires the adoption of findings of fact and statement setting forth
123 the factors considered which justify the Board of Yakima County Commissioners action to
124 amend the Planning Commissions recommendation; and

125
126 WHEREAS, the Board, having carefully considered the Planning Commission's Findings and
127 Recommendation, written and oral testimony of the public and agencies, recommendations from
128 staff, and changes proposed by the Board members during deliberations of the record, did debate
129 issues of concern and made decisions by consensus or by vote to revise the Planning
130 Commission's Findings and Recommendation ; and

131
132 NOW THEREFORE, the Board herby adopts the PC Findings and Recommendation (BOCC
133 Hearing Exhibit "D", "PC Hearing Draft CAO Only") with the following changes:

134
135 1) Page 3, Section 16A.01.04(1)(b) (Intent of Title), strike line 80. The Board removes
136 intent statement b) and the recommended PC edits as an inappropriate intent statement.
137 2) Page 3, Section 16A.01.04(1) (Intent of Title), insert a new subsection (j) at line 93 with
138 the following language "Recognize that mining and related uses are an appropriate use
139 within designated critical areas when conducted in a manner consistent with the laws of
140 the state that already govern mining including, but not limited to, the Surface Mining Act,

141 RCW 78.44.”. Based on public testimony, the Board finds this as an appropriate intent
142 statement for the CAO.

143 3) Page 3, Section 16A.01.05 (Applicability), line 108, insert the following language at the
144 beginning of the sentence “Except as provided in subsections (3) and (4) below,”. The
145 Board finds this language necessary to implement item 4 and 5 below.

146 4) Page 4, Section 16A.01.05 (Applicability), line 155, insert a new subsection (3) to read as
147 follows:

148 “Due to the requirements of Substitute Senate Bill 5248, the provisions or standards
149 of this Title shall not apply to agricultural activities in certain areas, as defined below.
150 Such agricultural activities are still subject to the requirements of YCC Title 16A as
151 adopted October 1, 1995.

152 a) “agricultural activities” means agricultural uses and practices currently existing
153 or legally allowed on rural land or agricultural land designated under RCW
154 36.70A.170 including, but not limited to: Producing, breeding, or increasing
155 agricultural products; rotating and changing agricultural crops; allowing land used
156 for agricultural activities to lie fallow in which it is plowed and tilled but left
157 unseeded; allowing land used for agricultural activities to lie dormant as a result
158 of adverse agricultural market conditions; allowing land used for agricultural
159 activities to lie dormant because the land is enrolled in a local, state, or federal
160 conservation program, or the land is subject to a conservation easement;
161 conducting agricultural operations; maintaining, repairing, and replacing
162 agricultural equipment; maintaining, repairing, and replacing agricultural
163 facilities, when the replacement facility is no closer to a critical area than the
164 original facility; and maintaining agricultural lands under production or
165 cultivation.”.

166 The Board accepts the staff recommendation to insert language in order to address the
167 requirements of SSB 5248.

168 5) Page 4, Section 16A.021.05 (Applicability), line 156, insert a new subsection (4) to read
169 as follows

170 “Due to the requirements of Engrossed Substitute House Bill (ESHB) 1933, the
171 provisions of this title shall apply to any new development, construction or use within
172 the unincorporated portion of Yakima County designated as a critical area inside
173 Shoreline jurisdiction from the effective date of this title until the date of the next
174 subsequent update of the Shoreline Master Program (anticipated to be YCC Title
175 16D), as approved by the Washington Department of Ecology per RCW 90.58.090.
176 After the Shoreline Master Program (SMP) is approved, critical areas within
177 Shoreline jurisdiction shall be governed by the SMP.”

178 The board finds this language necessary to avoid a gap in regulatory controls for
179 critical areas inside Shoreline jurisdiction until the SMP is approved by DOE in 2008.

180 6) Page 13, Section 16A.02.200 (Fill), line 525, strike the term “rubble”. The Board
181 removes this undefined term to avoid confusion.

182 7) Page 15, Section 16A.02.275 (Lake or Pond) line 629, insert the following sentence after
183 “dam”, “but excludes a man-made body of water created for surface mining purposes.”.

184 The Board inserts this language to insure man-made ponds created from surface mining
185 are not designated as critical areas.

186 8) Page 18, Section 16A.02.321 (Qualified Professional), lines 740-744, delete existing and
187 proposed test and edit to read as follows:
188 “A “qualified professional” shall meet the following criteria:”.

189 9) Page 18, Section 16A.02.321 (Qualified Professional), line 777, delete proposed text and
190 edit to read as follows:
191 “(h) Or other person/persons with experience, training, expertise, and related work
192 experience appropriate for the relevant critical area subjects determined to be acceptable
193 to the Administrative Official.”.

194 For items 8) and 9), the Board has finds that the edits give the Administrative Official more
195 flexibility in applying the Qualified Professional criteria.

196 10) Page 19, Section 16A.02.325 (Restore), line 787, strike “or upgrade”. The Board has
197 removed this term since it is redundant with the preceding word “re-establish”.

198 11) Page 19, Section 16A.02.340 (Riprap), line 803, strike “rubble or”. The Board removes
199 this undefined term to avoid confusion.

200 12) Page 26, Section 16A.03.02(3)(a) (Critical Areas Identification Form and Critical Areas
201 Report Requirements), lines 1103-1104, strike the phrase “, and/or the proposed activity
202 is unlikely to degrade the functions or values of a critical area”. The Board finds this
203 statement speculative.

204 13) Page 27, Section 16A.03.02(3)(c) (Critical Areas Identification Form and Critical Areas
205 Report Requirements), lines 1113-1114, strike the phrase “or is likely to degrade the
206 functions and values of the critical area”. The Board finds this statement is speculative.

207 14) Page 29, Section 16A.03.06(1) (Exemptions – Procedural Requirements), lines 1244-
208 1245, strike the phrase “”Exemptions shall be construed narrowly and”. The Board finds
209 this statement inappropriate.

210 15) Page 30, Section 16A.03.06(4) (Exemptions – Procedural Requirements), lines 1262-
211 1263, strike subsection (4) in its entirety. The Board finds this requirement unnecessary.

212 16) Page 30, Section 16A.03.06(6) (Exemptions – Procedural Requirements), line 1256,
213 strike the word “potential”. The Board finds that a requirement to protect against
214 “potential” impacts is speculative.

215 17) Page 30, Section 16A.03.06(7) (Exemptions – Procedural Requirements), lines 1265-
216 1271, insert a period “.” after the word “standards”. Strike the remainder of subsection
217 (7). The Board finds the recommended examples unnecessary.

218 18) Page 31, Section 16A.03.07(1) (Exemptions for Hydrologically Related Critical Areas,
219 and Wetlands), line 1324, strike “two hundred fifty” and insert “five hundred”. The
220 Board finds that a “five hundred” cubic yard threshold is consistent with SEPA and
221 therefore more appropriate.

222 19) Page 33, Section 16A.03.07(8) (Exemptions for Hydrologically Related Critical Areas,
223 and Wetlands), lines 1417-1418, strike the phrase “for the primary purpose of making use
224 of system waters, including return flow and artificially stored ground water from the
225 irrigation of lands”. The Board finds the examples unnecessary.

226 20) Page 35, Section 16A.03.07(17)(ii) Exemptions for Hydrologically Related Critical
227 Areas, and Wetlands), lines 1474-1477, edit subsection (ii) to read as follows
228 “A diseased or damaged tree may be removed as determined appropriate by the
229 Administrative Official”. The Board finds that the Administrative Official should have
230 greater discretion on this issue.

231 21) Page 35, Section 16A.03.07(17)(iii) Exemptions for Hydrologically Related Critical
232 Areas, and Wetlands), lines 1478-1484, strike the phrase “or a certified arborist, or other
233 appropriate expert approved by the Administrative Official, documents that the diseased
234 tree may spread disease to other plants” and insert “or unless the Administrative Official
235 determines otherwise”. The Board finds that the Administrative Official should have
236 greater discretion on this issue.

237 22) Page 35, Section 16A.03.07 (17)(iv) Exemptions for Hydrologically Related Critical
238 Areas, and Wetlands), lines 1485-1486, strike the phrase “with one (1) new tree with a
239 minimum caliper of 1.5 inches, or other replanting plan” and insert “in a manner”. For
240 items 20), 21) and 22), the Board finds that the edits significantly simplify the exemption
241 criteria and allow the Administrative Official more flexibility in decision making.

242 23) Page 42, Section 16A.03.17(2) (Critical Areas Report Requirements), line 1790, strike
243 the phrase “consistent with” and insert “utilizing”. The Board finds that the term more
244 accurately describes the process.

245 24) Page 43 Section 16A.03.17(7) (Critical Areas Report Requirements), line 1831, strike
246 “inaccurate,.”. The Board finds the term inappropriate.

247 25) Page 47, Section 16A.03.18(3)(c)(i) (Critical Areas Report Requirements), line 1996,
248 strike the phrase “the accuracy of the report and”. The Board finds this phrase to be
249 inappropriate.

250 26) Page 53, Section 16A.03.23, lines 2292-2294, strike the sentence “That the adjustment
251 would provide greater convenience, would reduce inconvenience, or would provide
252 increased profitability does not constitute a hardship.” The Board finds this standard
253 overly burdensome.

254 27) Page 61, Section 16A.03.27(3)(c) (Subdivision Standards), line 2635-2638, strike
255 subsection (3)(c) in its entirety. The Board finds this standard to be inappropriate and
256 burdensome.

257 28) Page 83, Section 16A.06.04(2)(Upland Wildlife Habitat and Habitats of Local
258 Importance). The Board accepts the PC recommendation to process the Upper Wenas
259 Valley as a Habitat of Local Importance after the adoption of the CAO and directs staff to
260 begin such review as soon as possible. The Board has reviewed the exhibits and
261 testimony regarding the Upper Wenas Valley and finds that, until such time as a Habitat
262 of Local Importance is established, the existing low density zoning of Rural/Remote (40
263 acres) and Forest Watershed (80 acres) is adequate protection. The Board further finds
264 that the **Plan 2015**, Volume 2, Chapter IV, page 5, statement that “upland game habitat
265 and geologically hazardous slopes and aquifer recharge areas, are effectively addressed
266 by the Preferred Land Use scenario discussed in **Plan 2015**’s Land Use Element”
267 continues to be an accurate statement for protecting upland game habitat in combination
268 with the existing or updated critical areas ordinance. The Board accepts/supports the
269 protection approach outlined in Section 16A.06.02 of the CAO for the protection of
270 wildlife habitat in Yakima County.

271
272 The proposal to increase the protection measures for the Upper Wenas Valley suffers
273 from a number of problems that make the proposal unready for consideration at this time.
274 The public process for the CAO update began in March of 2004. The proponents of the
275 Upper Wenas Valley did not submit a formal proposal until the PC hearing in December
276 2006. The testimony and exhibits presented to the PC consisted of eight (8) bound
277 notebooks, several additional handouts and 2 wall sized maps, all totaling thousands of
278 pages. This proposal did not include any maps or descriptions of what area was proposed
279 for designation as a critical area, nor did it include any proposed management/regulatory
280 measures to be used for habitat protection. At the Board hearing, the proponents of the
281 Upper Wenas Valley presented maps depicting the area requested for designation as a
282 critical area, but did not included any management/regulatory proposals. In summary,
283 inadequate information has been provided to make an informed decision, and the staff

284 and Planning Commission have not been able to make a recommendation on the
285 complete proposal.

287 In addition, the area presented to the Board requesting designation as a critical area
288 consists of approximately 62,500 acres (98 square miles), of which, approximately 80%
289 is within public ownership. The area is remote, with the majority of the area zoned
290 Rural/Remote (~ 54%) and Forest Watershed (~ 45%). Of the remaining 20% in private
291 ownership, the majority is utilized for commercial timber and rangeland grazing, with
292 limited irrigated agriculture. A small area (~ 280 acres) around Wenas Lake is utilized
293 for recreational and residential uses. No evidence or testimony was presented to either
294 the PC or the Board that habitat in the Upper Wenas Valley is in decline or at risk during
295 the review time needed to consider the area for designation as a Habitat of Local
296 Importance in the future.

297 29) Page 84, Section 16A.06.04(2)(b) (Upland Wildlife Habitat and Habitats of Local
298 Importance), line 3553, strike “shall” and insert “should”. The Board finds the edit to
299 add more flexibility to the process.

300 30) Page 84, Section 16A.06.04(2)(b)(iv) (Upland Wildlife Habitat and Habitats of Local
301 Importance), lines 3558-3566, strike subsection (2)(b)(iv) in its entirety. The Board finds
302 the WDFW PHS criteria inappropriate and burdensome.

303 31) Page 87, Section 16A.06.06(5) (Stream, Lake and Pond Typing System), lines 3712-
304 3714, strike the phrase “as streams, but may be protected under geologically hazardous
305 areas, floodplain, stormwater, construction, grading or other development regulations”.
306 The Board accepts the PC recommendation, based on BAS and a review of the GMA and
307 WAC 365-190-080(5) that Type 5 streams do not constitute fish and wildlife habitat
308 conservation areas, but may be regulated as other critical areas or other regulations. The
309 Board finds that the deleted text reference is unnecessary, since those regulations are in
310 effect by this title or other Yakima County codes.

311 32) Page 91, Section 16A.06.10(6) (Prohibited Uses), line 3887, strike the word “sewer” and
312 insert “wastewater”. The Board finds “wastewater” to be a more appropriate term.

313 33) Page 95, Section 16A.06.12 (Use Classifications), line 4040, at the end of the sentence,
314 insert the phrase “except for those activities listed in Section 16A.03.05 (Minor Activities
315 Allowed without a Permit or Exemption)”. During deliberations, the Board discussed the
316 possible need to define the term “use area” used in sections 16A.06.13 through
317 16A.06.15. The deliberation was in relation to what uses were, or were not, allowed
318 within a buffer. Since the term “use” is already defined (16A.02.400) and Section
319 16A.03.05 lists uses or activities that are allowed within a buffer, the board finds that a
320 reference to Section 16A.03.05 is a better solution, which is less problematic than
321 creating a new definition.

322 34) Page 94, Section 16A.06.12(1)(b) (Use Classifications), line 4054, strike the word
323 “sewage” and insert “wastewater”. The Board finds “wastewater” to be a more
324 appropriate term.

325 35) Page 94, Section 16A.06.14 (Water-related Uses), line 4089, delete the word “the”, as a
326 grammatical edit.

327 36) Page 100, 16A.06.16, Table 4-2 (Vegetative Buffers, will be updated to table 6-2), reject
328 the PC recommended wetland buffer widths and retain the existing wetland buffer widths
329 from existing table 4-2 on page 96 except for editing the Type IV wetland buffers to
330 50’/(25’) (Std./Min.). The Board has considered the Best Available Science (BAS) and
331 finds that there has been no evidence or testimony that any significant environmental

332 degradation has occurred with the existing wetland buffers, therefore the existing
333 standards, with edits, are within the range of BAS and sufficient to protect the functions
334 and values of wetlands.

335
336 The Board finds that the BAS on buffers covers a wide range of functions and
337 measurements, and there are no specific science citations that can be precisely applied in
338 Yakima County. There is science that applies to forested areas of Yakima County, but
339 there is a lack of science relating to the more arid Columbia Basin. There is
340 agriculturally based buffer science that would apply to some of the rural areas of the
341 County, but individual citations are usually focused on limited issues, and do not look at
342 the range of functions provided by the buffer or do not have broad applicability.
343

344 The main goal of the BAS review regarding buffers was to examine the range of science
345 and assess how the existing buffers fit within that range. The buffers outlined in the
346 CAO are within the range of science. The BAS requirement allows jurisdictions to
347 review science and determine the range of science that exists. Jurisdictions may choose
348 protection measures that are within that range of science. The BAS review identified a
349 range of buffer widths that would be acceptable for different functions. When the
350 combination of the different functions is compiled together, it also resulted in a range for
351 a general buffer width. The buffers in the CAO are within this range. Buffers perform
352 several functions to protect critical areas, which are listed in section 16A.06.05
353 (Functional Properties), and include protecting water quality, providing bank
354 stabilization, and providing riparian wildlife habitat. The buffers provide well for water
355 quality and bank stability functions, and provide a modest level of riparian wildlife
356 habitat function. Providing a high level of riparian wildlife habitat would require much
357 larger buffers. Many buffer widths were proposed through the public process; ranging
358 from a few meters to several hundred feet. Generally, recommendations for small buffers
359 are based on a review of function specific science concentrated on water quality, while
360 larger buffers are based on wildlife science. Recommendations received for large,
361 wildlife buffers still fall within the range of science, but still do not address all wildlife
362 needs based on landscape ecological science.
363

364 GMA requires protecting the functions and values of fish and wildlife habitat. Under the
365 GMA, “Fish and wildlife habitat conservation” means land management for maintaining
366 species in suitable habitats within their natural geographic distribution so that isolated
367 subpopulations are not created. This does not mean maintaining all individuals of all
368 species at all times, but it does mean cooperative and coordinated land use planning is
369 critically important among counties and cities in a region. The CAO is composed of
370 performance standards that are intended to protect functions and values. A buffer is one
371 tool, though not the only tool, that tries to prevent or reduce impacts on a general level
372 through avoidance. The idea is that the buffer will do much to protect the functions and
373 values of the stream or wetland and provide wildlife habitat. Buffers cannot accomplish
374 everything, consequently there are other standards – usually relating to specific types of
375 activities (road construction, utility construction, filling and grading, etc).
376

377 37) Page 100, 16A.06.16, Table 4-1 (Vegetative Buffers, will be updated to 6-2), the Board
378 accepts the PC recommendation for stream buffers. The Board finds that the widths in

379 table 4-1 are within the range of BAS and are sufficient to protect the functions and
380 values of streams.

381 38) Page 100, 16A.06.16 (Vegetative Buffers, will be updated to 6-2), Table 4-1, second
382 column, first cell (for buffer width), insert “See 16A.06.16 subsections 1-4.”. The Board
383 finds that the edits provide clarity in the application of buffers and the allowance for
384 adjustment to the standards.

385 39) Page 100, 16A.06.16 (Vegetative Buffers, will be updated to 6-2), Table 4-1, second
386 column, sixth cell, strike “as streams, but may be protected under geologically hazardous
387 area, floodplain, stormwater, construction, grading or other development regulations”.
388 Consistent with item 30 above, the Board accepts the PC recommendation, based on
389 BAS, that Type 5 streams do not constitute fish and wildlife habitat conservation areas.
390 The Board also finds that the deleted text reference is unnecessary, since those
391 regulations are in effect by this title or other Yakima County codes.

392 40) Page 101, Section 16A.06.18 (Utility Lines and Facilities), line 4222, insert “and
393 facilities” after lines. The Board finds this edit to be consistent with the title of the
394 section.

395 41) Page 101, Section 16A.06.18 (Utility Lines and Facilities), line 4222, strike “sewer” and
396 insert “wastewater” after lines. The Board finds that “wastewater” is a more appropriate
397 term.

398 42) Page 102, Section 16A.06.18(8) (Utility Lines and Facilities), line 4249, strike “sanitary
399 sewage” and insert “wastewater”. The Board finds that “wastewater” is a more
400 appropriate term.

401 43) Page 104, Section 16A.06.21(9) (Filling), line 4350, within the brackets, insert “also
402 known as” before “compensatory”, strike “fill” and insert “storage”. The Board finds this
403 to be a more acceptable term consistent with BAS.

404 44) Page 104, Section 16A.06.22 (2) (Commercial Mining of Gravels), line 4370, strike “or
405 greater”. The Board finds this edit consistent with the requirement to protect critical
406 areas, and not to require restoration of critical areas.

407 45) Page 107, Section 16A.07.02(1)(A and B), lines 4452-4460:
408 ○ Line 4452, strike “a location of”;
409 ○ Line 4454, insert a period “.” after “artificial wetland”, strike the remainder of the
410 paragraph;
411 ○ lines 4459-4460, strike subsection (1)(B) in its entirety.
412 The Board finds that the existing guidance language, as edited here, is more appropriate
413 than the proposed guidance language.

414 WHEREAS, the Board directed staff to prepare ordinance text changes as necessary to
415 implement their revisions; and

416 WHEREAS, the Board finds the recommendations by the PC for changes to the **Plan 2015** goals
417 and policies related to critical areas to be acceptable without changes; and

418 WHEREAS, the Board conducted a final duly advertised and noticed public open record hearing
419 on their changes to the PC recommendation for all **Plan 2015** and ordinance changes on
420 December 13, 2007 and considered the cumulative effects of all such changes concurrently in its
421 final decision December 18, 2007; and

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425

426 WHEREAS, the Board is now satisfied that this legislative matter has been sufficiently
427 considered, and that the process leading to the development of the new CAO has been open,
428 extensive, continuous and afforded opportunities to all who wanted to participate or offer
429 testimony; and

430
431 WHEREAS, the Board of Yakima County Commissioners further concludes that adoption and
432 implementation of the CAO is in the public interest and essential to direct the future growth and
433 development of Yakima County, consistent with the County's Comprehensive **Plan 2015**; Now,
434 therefore,

435
436 **BE IT HEREBY ORDAINED:**

437
438 **Section 1. Adoption.** The document attached hereto as Exhibit A and entitled Critical Areas
439 Ordinance of Yakima County, Washington, is hereby adopted as an official control required by
440 RCW 36.70A. The document shall be codified as a new Title 16C, Yakima County Code. The
441 new YCC Title 16C consists of review criteria and standards for land use/development activities
442 within designated critical areas. YCC Title 16C shall apply to all unincorporated lands under
443 Yakima County's land use jurisdiction, except for lands under jurisdiction of the Shoreline
444 Management Act (RCW 90.58) and requirements of Substitute Senate Bill 5248 for agricultural
445 activities conducted on agricultural and rural lands.

446
447 **Section 2. Adoption.** The document attached hereto as Exhibit B and entitled Approved Edits to
448 Existing Critical Areas Comprehensive **Plan 2015** Goals & Policies, is hereby adopted as an
449 official edit to **Plan 2015**.

450
451 **Section 3. Retention.** To meet the requirements of Substitute Senate Bill 5248, the existing
452 CAO, codified as YCC Title 16A shall be retained for the regulation of agricultural activities on
453 designated agricultural and rural lands.

454
455 **Section 4. Severability.** If any section, sentence, clause, or phrase of the adopted new YCC
456 Title 16C should be held to be invalid or unconstitutional by any body or court with authority
457 and jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
458 constitutionality of any other section, clause or phrase of the adopted YCC Title 16C.

459
460 **Section 4. Effective Date.** This ordinance shall be effective at 11:59 p.m. on December 31,
461 2007.

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474 Dated this _____ day of _____, 2007

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476 Attest:

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Christina S. Steiner
Clerk of the Board

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Approved as to form only:

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Ronald S. Zirkle
Yakima County Prosecuting Attorney

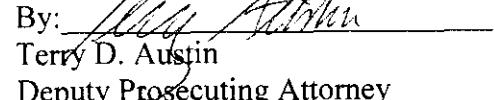
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By: 
Terry D. Austin
Deputy Prosecuting Attorney

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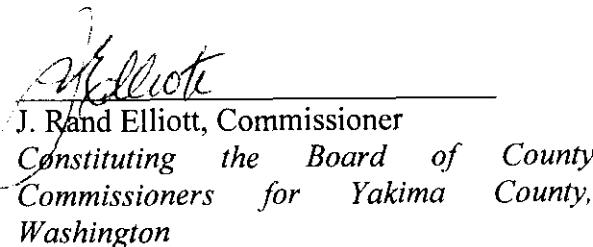
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Michael D. Leita, Chairman



Ronald F. Gamache, Commissioner


J. Rand Elliott, Commissioner
Constituting the Board of County
Commissioners for Yakima County,
Washington

498

499 **Exhibit A – Critical Areas Ordinance of Yakima County, Washington, Yakima County**
500 **Code Title 16C.**

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545 **Exhibit B – Approved Edits to Existing Critical Areas Comprehensive *Plan 2015* Goals &**
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Chapter 16C.01
GENERAL PROVISIONS

25

26

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35

16C.01.01 Title and Authority

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

42

16C.01.02 Language Interpretation

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

50

16C.01.03 Purpose of Title

51 The purpose of Title 16C is to establish a single, uniform system of procedures and standards to
52 be applied to development within designated critical areas of unincorporated Yakima County.

54

16C.01.04 Intent of Title

55 1) Title 16C establishes policies, standards, and other provisions pertaining to development
56 within designated critical areas regulated under the provisions of the Growth Management
57 Act (RCW 36.70A), and development regulated under the National Flood Insurance
58 Program. Additional purpose and intent for the protection of critical areas is provided in the
59 chapter on each subject. Stream corridors, flood hazard areas, wetlands, critical aquifer
60 recharge areas, geologically hazardous areas and fish and wildlife habitat areas constitute
61 Yakima County's critical areas. These areas are of special concern to the people of Yakima
62 County and the state of Washington because they are environmentally sensitive lands, or
63 hazardous areas, which comprise an important part of the county's natural resource base. The
64 policies, standards and procedures of this title are intended to:
65 a) Preserve development options within designated critical areas where such development
66 will not adversely impact critical area values and functions, particularly the functional
67 properties of stream corridors and other hydrologically related critical areas;

69 b) Prevent further degradation of critical areas;

70 c) Conserve, protect and, where feasible, restore essential or important natural resources.

71 d) Protect the public health, safety and general welfare;

72 e) Further the goals and objectives of the Yakima County Comprehensive Plan and all of its

73 elements;

74 f) Implement the goals and requirements of the Washington Growth Management Act

75 (RCW Chapter 36.70A), and the National Flood Insurance Program;

76 g) Recognize and protect private property rights;

77 h) Provide development options for landowners of all existing lots to the greatest extent

78 possible, through the establishment of Adjustment, Reasonable Use provisions and Non-

79 Conforming Use and Facility provisions;

80 i) Recognized that mining and related uses are an appropriate use within designated critical

81 areas when conducted in a manner consistent with the laws of the state that already govern

82 mining including, but not limited to, the Surface Mining Act, RCW 78.44.

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

84 a) Are not intended to regulate the operation and maintenance of existing, legally

85 established uses and structures, including but not limited to vegetative buffers on existing

86 uses that have been reduced in width prior to the effective dates of provisions in the

87 Critical Areas Ordinance;

88 b) Are not intended to result in an unconstitutional taking of private property;

89 c) Are not intended to retroactively require the restoration of degraded critical areas for

90 properties in a degraded condition prior to the effective dates of provisions in the Critical

91 Areas Ordinance; but rather to utilize restoration as a tool to mitigate impacts of new

92 development;

93 d) Are not intended to presume that regulatory tools are the only mechanism for protection,

94 but rather integrated with non-regulatory tools in as balanced a manner as possible;

95 e) Are not intended to prohibit the use of valid water rights.

97 **16C.01.05 Applicability**

98 1) Except as provided in subsections (3) and (4) below, the provisions of this title shall apply to

99 any new development, construction or use within the unincorporated portion of Yakima

100 County designated as a critical area outside Shoreline jurisdiction, as determined by the

101 Shoreline Master Program (YCC Title 16D), and upon any land mapped and designated as a

102 special flood hazard area under the National Flood Insurance Program, however, this title

103 does not apply to the situations below, except that the Flood Hazard protection provisions of

104 Chapter 5 will continue to apply as determined by the applicability provision in 16C.05.20:

105 a) Within critical areas designated by this title or amendments that may later be adopted,

106 there may exist lots, structures and uses which were lawfully established before this title

107 was initially adopted, amended or readopted, as provided below, but which would be

108 subsequently prohibited, regulated or restricted under this ordinance. It is the intent of

109 this title to permit these pre-existing legal non-conformities to continue without

110 requirement to change said non-conformity until such time as conformance is required

111 through permits for development in the future. The adoption and amendment dates of the

112 relevant regulations are provided below;

113 i) Critical Areas Ordinance adopted July 12, 1994;

114 ii) Critical Areas Ordinance amended October 1, 1995;

- iii) Flood Hazard Ordinance adopted June 5, 1985.
- 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 Subdivision Ordinance (YCC 14), the Yakima County Zoning Ordinance (YCC Title 15), the Yakima Urban Area Zoning Ordinance (YCC Title 15A), 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) Due to the requirements of Substitute Senate Bill 5248, the provisions or standards of this title shall not apply to agricultural activities in certain areas, as defined below. Such agricultural activities are still subject to the requirements of YCC Title 16A as adopted October 1, 1995.

- a) "agricultural activities" means agricultural uses and practices currently existing or legally allowed on rural land or agricultural land designated under RCW 36.70A.170 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

161 equipment; maintaining, repairing, and replacing agricultural facilities, when the
162 replacement facility is no closer to a critical area than the original facility; and
163 maintaining agricultural lands under production or cultivation.

164 4) Due to the requirements of Engrossed Substitute House Bill (ESHB) 1933, the provisions of
165 this title shall apply to any new development, construction or use within the unincorporated
166 portion of Yakima County designated as a critical area inside Shoreline jurisdiction from the
167 effective date of this title until the date of the next subsequent update of the Shoreline Master
168 Program (anticipated to be YCC Title 16D), as approved by the Washington Department of
169 Ecology per RCW 90.58.090. After the Shoreline Master Program (SMP) is approved,
170 critical areas within Shoreline jurisdiction shall be governed by the SMP.

171

172 **16C.01.06 Science and Protection of Anadromous Fish**

173 This title has been updated consistent with the requirements for:

174 1) Using the best available science as required by RCW 36.70A.172 (Critical areas --
175 Designation and protection -- Best available science to be used) and WAC 365-195-900
176 through WAC 365-195-920 (BAS Background and purpose);
177 2) Giving special consideration to conservation or protection measures necessary to preserve or
178 enhance anadromous fish and their habitat, (salmon, steelhead, etc.) as required by RCW
179 36.70A.172 (Best available science to be used) and WAC 365-195-925 (Criteria for
180 demonstrating "special consideration" has been given to anadromous fisheries).

181

182 **16C.01.08 Administrative Authority**

183 1) The Yakima County Public Services Department - Planning Division shall be
184 responsible for the general administration of this title. The Planning Division
185 Manager or the Manager's designee shall serve as the Administrative Official of this
186 title, except as noted in Chapters 16C.05.20 through 16C.05.72. The Administrative
187 Official shall establish procedures for implementation of this title.
188 a) Where the provisions of these regulations may be unclear in special
189 circumstances, or where judgment must be made because of the nature of the language used,
190 the Administrative Official shall make such interpretations. A separate record of all
191 interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the
192 Administrative Official for its effect or influence on the pending action.
193 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
194 16B.03.070.

195

196 **16C.01.09 Severability**

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

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207

Chapter 16C.02 DEFINITIONS

16C.02.001 Definitions Generally

208 a) Whenever the words and terms set forth in this chapter appear in this title, they shall be given
209 the meaning attributed to them by this chapter. References to specific provisions of YCC Title
210 13 and the International Building Codes, statutes and Washington Administrative Code provide
211 greater detail for purposes of administering this title.

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

16C.02.005 Abutting

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

16C.02.010 Adjacent

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

16C.02.012 Administrative Official

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

16C.02.025 Alluvial fan

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

16C.02.030 Applicant

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

16C.02.035 Aquifer

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

16C.02.040 Critical Aquifer Recharge Area

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

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251 **16C.02.042 Bank**

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

255 **16C.02.043 Bankfull depth**

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

261 **16C.02.044 Base Flood**

262 "Base Flood" for purposes of administering 16C.05 means the flood having a 1-percent chance
263 of being equaled or exceeded in any given year. (Ref. IBC 1612.2)

265 **16C.02.045 Base Flood Elevation**

266 "Base flood elevation" for purposes of administering 16C.05 means the elevation of the base
267 flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North
268 American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map
269 (FIRM). (Ref. IBC1612.2)

271 **16C.02.046 Basement**

272 "Basement" for purposes of administering 16C.05 means any area of the building having its floor
273 subgrade (below ground level) on all sides. (Ref. IBC 1612.2)

275 **16C.02.055 Bed**

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

280 **16C.02.060 Bedrock**

281 "Bedrock" means in-place solid rock.

283 **16C.02.065 Berm**

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

287 **16C.02.067 Best Management Practices**

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

292 **16C.02.070 Bioengineering**

293 "Bioengineering" means project designs or construction methods which use live woody
294 vegetation or a combination of live woody vegetation and specially developed natural or
295 synthetic materials to establish a complex root grid within the existing bank which is resistant to
296 erosion, provides bank stability, and maintains a healthy riparian environment with habitat

297 features important to fish life. Use of wood structures or limited use of clean angular rock may
298 be allowable to provide stability for establishment of the vegetation.

299

300 **16C.02.075 Breakwater**

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

303

304 **16C.02.080 Bulkhead**

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

308

309 **16C.02.085 Channel**

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

313

314 **16C.02.092 Chief Building Official**

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

317

318 **16C.02.095 Classification**

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

321

322 **16C.02.100 Clearing**

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

325

326 **16C.02.110 Compaction**

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

328

329 **16C.02.115 Confinement Feeding Operation**

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

335

336 **16C.02.120 Construction**

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

339

340 **16C.02.125 Designated**

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

343 **16C.02.130 Department**

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

345

346 **16C.02.135 Development**

347 "Development" means the division of land into lots or parcels in accordance with the county
348 Subdivision Ordinance, and any clearing, excavation, dredging, drilling, filling, dumping,
349 removal of earth and mineral materials, or other permanent or temporary modification of a site
350 up to, but not including, construction as defined in this chapter. For the purpose of Chapters
351 16C.05.20 through 16C.05.72, "development" also means any manmade change to improved or
352 unimproved real estate located within the special flood hazard area, including but not limited to
353 buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling,
354 temporary or permanent storage of equipment and works defined in this chapter. (Ref. IBC G
355 201.2)

356

357 **16C.02.140 Dike**

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

360

361 **16C.02.145 Dock**

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

364

365 **16C.02.150 Dredging**

366 "Dredging" means removal of earth from the bed of a stream, lake, or pond for the purpose of
367 increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill
368 materials. This definition does not include excavation for mining within a pond created by a
369 mining operation approved under this title or under a local zoning ordinance, or a mining
370 operation in existence before Zoning, Shorelines, or Critical Areas permits were required for
371 such operations.

372

373 **16C.02.160 Earth Material**

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

375

376 **16C.02.170 Enhance**

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

380

381 **16C.02.175 Ephemeral Stream**

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

386

387 **16C.02.180 Erosion**

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

390

391 **16C.02.190 Excavation**

392 "Excavation" means the mechanical removal of earth material.

393

394 **16C.02.200 Fill**

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

401

402 **16C.02.205 Flood**

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

406

407 **16C.02.206 Flood Hazard Permit**

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

410

411 **16C.02.207 Flood Insurance Rate Map**

412 "Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency
413 Management Agency has delineated both the areas of special flood hazards and the risk premium
414 zones applicable to the community.

415

416 **16C.02.208 Flood Insurance Study**

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

420

421 **16C.02.210 Floodplain**

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

427

428 **16C.02.215 Flood-prone**

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

434 **16C.02.216 Flood-proofing**

435 "Flood-proofing" for purposes of administering 16C.05 means any combination of structural and
436 nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood
437 damages to lands, water and sanitary facilities, structures and contents of buildings.

438

439 **16C.02.220 Floodway**

440 "Floodway" means the regular channel of a river, stream, or other watercourse, plus the adjacent
441 land areas that must be reserved in order to discharge the base flood without cumulatively
442 increasing the water surface elevation more than one foot.

443

444 **16C.02.225 Floodway Fringe**

445 "Floodway fringe" for purposes of administering 16C.05 means that portion of a floodplain
446 which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve
447 as temporary storage for floodwaters.

448

449 **16C.02.230 Forest Land**

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

451

452 **16C.02.240 Forest Practices**

453 "Forest practices" means activities conducted under federal forest practices approval or under a
454 Forest Practices permit reviewed and approved by the Washington Department of Natural
455 Resources pertaining to the management of forest land, including growing, managing,
456 harvesting, and interim storage of merchantable timber for commercial value, as well as
457 incidental activities reviewed under federal or state approval, such as road construction and
458 maintenance (including bridges) and mining activities.

459

460 **16C.02.250 Grade**

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

466

467 **16C.02.255 Grading**

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

469

470 **16C.02.260 Groundwater**

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

474

475 **16C.02.263 Hydrologically Related Critical Areas (HRCA)**

476 "Hydrologically related critical areas (HRCA)" include all those areas identified in section
477 16C.06.03, within Yakima County which are important and deserving of protection by nature of
478 their value for the functional properties found in Section 16C.06.05.

479

480 **16C.02.266 Hyporheic**

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

484 **16C.02.270 Intermittent Streams**

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

491 **16C.02.275 Lake or pond**

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

496 **16C.02.281 Lowest Floor**

497 "Lowest floor" for purposes of administering 16C.05 means the lowest floor of the lowest
498 enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for
499 parking of vehicles, building access or storage, in an area other than a basement area, is not
500 considered a building's lowest floor, provided that such enclosure is not built so as to render the
501 structure in violation of the applicable nonelevation design requirements of this title.

503 **16C.02.282 Manufactured Home**

504 "Manufactured home" means a structure fabricated on a permanent chassis that is transportable
505 in one or more sections; is designed to be used with or without a permanent foundation when
506 connected to the required facilities; has sleeping, cooking, and plumbing facilities or any
507 combination thereof; and is intended for human occupancy or is being used for residential
508 purposes. Although Washington Administrative Code (WAC) and Yakima County Code Titles
509 13 and 15 separately define and distinguish between "manufactured home" and "mobile home"
510 according to federal or state construction codes for such dwellings, the term "manufactured
511 home" shall include "mobile home" for regulatory purposes under this chapter. The term shall
512 not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park
513 trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or
514 used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a
515 manufactured or mobile home under any federal or state law. For floodplain management
516 purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and
517 other similar vehicles shall be considered manufactured homes when placed on a site for greater
518 than one hundred eighty days.

519 **16C.02.283 Manufactured Home Park or Subdivision**

520 "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided
521 into two or more manufactured home lots for rent or sale in accordance with YCC Title 15 of this
522 Code.

523 **16C.02.284 Manufactured Home Park or Subdivision, Existing**

526 "Existing manufactured home park or subdivision" means a manufactured home park or
527 subdivision for which the construction of facilities for servicing the lots on which the
528 manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the
529 construction of streets, and either final site grading or the pouring of concrete pads) is completed
530 before October 1, 1995, the effective date of these floodplain management regulations.
531

532 **16C.02.285 Minerals**

533 "Minerals" means gravel, sand and metallic and non-metallic substances of commercial value.
534

535 **16C.02.290 Mining**

536 "Mining" means the removal of naturally occurring minerals and materials from the earth for
537 commercial value. Mining includes processing and batching. Mining does not include large
538 excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation
539 (16C.06.20).
540

541 **16C.02.295 Native**

542 "Native" means indigenous to or originating naturally within Yakima County.
543

544 **16C.02.300 Natural Conditions**

545 "Natural conditions" means those conditions which arise from or are found in nature and not
546 modified by human intervention; not to include artificial or manufactured conditions.
547

548 **16C.02.302 New Construction**

549 "New construction" for purposes of administering 16C.05 means structures for which the start of
550 construction commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-
551 1985 in order to meet the requirements of the National Flood Insurance Program. October 1,
552 1995, the effective date of the ordinance codified in this title shall be used for defining the term
553 new construction as it applies to all other Critical Areas requirements established under this title
554 by Ordinance 8-1995.
555

556 **16C.02.303 Nonconforming Structure**

557 "Nonconforming structure" for purposes of administering 16C.05 means a structure which was
558 legally constructed prior to October 1, 1995, the effective date of this title, but which would not
559 be permitted as a new structure under the terms of this title because the structure is not in
560 conformance with the applicable elevation and/or flood-proofing requirements.
561

562 **16C.02.304 Nonconforming Use**

563 "Nonconforming use" for purposes of administering 16C.05 means the use of a building,
564 structure or land which was lawfully established, existing and maintained at the effective date of
565 provisions of this title but which, because of the application of this title to it, no longer conforms
566 to the use or applicable elevation and/or flood-proofing requirements of this title and which
567 would not be permitted as a new use under the terms of this title.
568

569 **16C.02.305 Ordinary High Water Mark (OHWM)**

570 "Ordinary high water mark" means that mark on lakes and streams which will be found by
571 examining the bed and banks and ascertaining where the presence and action of waters are so

572 common and usual, and so long continued in ordinary years, as to mark upon the soil a character
573 distinct from that of the abutting upland.

574

575 16C.02.310 Perennial Stream

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

578

579 16C.02.320 Project Site

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

582

583 16C.02.321 Qualified Professional

584 "A qualified professional" shall meet the following criteria:

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

588 (b) A qualified professional for stream corridors and habitat conservation areas must have a
589 bachelors degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a
590 minimum of five years professional experience related to the subject species/habitat type.

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

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

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

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

601 (g) A qualified professional for economic studies must have a bachelors degree or higher in
602 economics or business administration with 5 years of professional experience. The five year
603 standard shall be waived for professionals with a PhD degree.

604 (h) Or other person/persons with experience, training, expertise and related work experience
605 appropriate for the relevant critical area subjects determined to be acceptable to the
606 Administrative Official.

607

608 16C.02.322 Recreation Vehicle

609 "Recreation vehicle" means a vehicle which is:

610 (1) Built on a single chassis;

611 (2) Four hundred square feet or less when measured at the largest horizontal projection;

612 (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

613 (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for
614 recreational, camping, travel, or seasonal use.

615

616 16C.02.325 Restore

617 "Restore" means to re-establish the basic functional properties listed in Section 16C.06.05 that
618 have been lost or destroyed through natural events or human activity. This may be accomplished
619 through measures including but not limited to re-vegetation, removal of intrusive structures and
620 removal or treatment of toxic materials. Restoration does not imply a requirement for returning
621 the site to aboriginal or pre-European settlement conditions.

622

623 **16C.02.330 Revetment**

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

626

627 **16C.02.335 Riparian vegetation**

628 "Riparian Vegetation" means the terrestrial vegetation that grows beside rivers, streams, and
629 other freshwater bodies and that depends on these water sources for soil moisture greater than
630 would otherwise be available from local precipitation.

631

632 **16C.02.340 Riprap**

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

635

636 **16C.02.345 Scour**

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

639

640 **16C.02.355 Shoreline**

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

645

646 **16C.02.360 Shore Stabilization**

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

650

651 **16C.02.365 Slope**

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

654

655 **16C.02.366 Solid Waste**

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

660

661 **16C.02.367 Special Flood Hazard Areas**

662 "Special flood hazard area" means the land in the floodplain identified by the Federal Emergency
663 Management Agency that is subject to a one-percent or greater chance of flooding in any given
664 year; commonly known as the 100-year floodplain.
665

666 **16C.02.368 Start of Construction**

667 "Start of construction" for purposes of administering 16C.05 means the first placement of
668 permanent construction of a structure (other than a manufactured home) on a site, such as the
669 pouring of slabs or footings or any work beyond the stage of excavation. "Permanent
670 construction" does not include land preparation, such as clearing, grading and filling, nor does it
671 include the installation of streets or walkways; nor does it include excavation for a basement,
672 footings, piers or foundations, or the erection of temporary forms; nor does it include the
673 installation on the property of accessory buildings, such as garage, or sheds not occupied as
674 dwelling units or not as part of the main structure. For a structure (other than a manufactured
675 home) without a basement or poured footings, the "start of construction" includes the first
676 permanent framing or assembly of the structure or any part thereof on its piling or foundation.
677 For manufactured homes not within a manufactured home park, "start of construction" means the
678 affixing of the manufactured home to its permanent site. For manufactured homes within
679 manufactured home parks, "start of construction" is the date on which the construction of
680 facilities for servicing the site on which the manufactured home is to be affixed (including, at a
681 minimum, the construction of streets, either final site grading or the pouring of concrete pads,
682 and installation of utilities) is completed.
683

684 **16C.02.370 Stream**

685 "Stream" means water contained within a channel, either perennial, intermittent or ephemeral.
686 Streams include natural watercourses modified by man, for example, by stream flow
687 manipulation, channelization, and relocation of the channel. They do not include irrigation
688 ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or
689 other artificial watercourses.
690

691 **16C.02.380 Stream Corridor**

692 "Stream corridor," as used in this title, means those features listed and described in Chapter
693 16C.06.03 and related appendices to this title.
694

695 **16C.02.390 Structure**

696 "Structure" means anything constructed or erected which requires location on the ground, or
697 attached to something having a location on the ground, but not including fences or walls used as
698 fences less than six feet in height. The term also includes gas or liquid storage tanks when
699 located principally above ground.
700

701 **16C.02.395 Substantial Improvement**

702 "Substantial improvement" for purposes of administering 16C.05 means any repair,
703 reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent
704 of the assessed value of the structure either:

705 (1) Before the improvement or repair is started; or
706 (2) Before the damage occurred to a structure that has been damaged and is being restored.

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

713 (1) Any project for improvement to a structure to comply with existing state or local health,
714 sanitary or safety code specifications which are solely necessary to assure safe living conditions;
715 or
716 (2) Any alteration of a structure listed on the National Register or Historic Places or a state
717 inventory of historic places.

719 **16C.02.400 Use**

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

723 **16C.02.415 Vegetative Buffer or Buffer**

724 "Vegetative buffer or Buffer" means an area extending landward from the ordinary high water
725 mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise
726 allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for
727 the performance of the basic functional properties of a stream corridor, wetland and other
728 hydrologically related critical areas as set forth in Chapter 16C.06.05 (Functional Properties) and
729 16C.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not
730 always exist due to degradation of the vegetative buffer before establishment of this title, or due
731 to colonization by non-native species. Such conditions still provide functional properties, though
732 at a lower level, depending on the difference from natural conditions.

734 **16C.02.425 Wetland**

735 "Wetland" or "wetlands" means that area inundated or saturated by surface water or groundwater
736 at a frequency and duration sufficient to support, and under normal circumstances does support, a
737 prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands
738 generally include swamps, marshes, bogs and similar areas. Wetlands do not include those
739 artificial wetlands intentionally created from non-wetland sites, including, but not limited to,
740 irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater
741 treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1,
742 1990, that were unintentionally created as a result of the construction of a road, street, or
743 highway. However, wetlands may include those artificial wetlands specifically intentionally
744 created from non-wetland areas to mitigate conversion of wetlands.

745 **16C.02.430 Wildlife**

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

753 **16C.02.435 Wildlife Habitat**

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

757

758 **16C.02.440 Works**

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

762	Chapter 16C.03	
763	APPLICATION AND REVIEW PROCEDURES	
764	<u>Sections:</u>	
765	General Provisions	
766	16C.03.01	Critical Area Development Authorization Required
767		
768	Inquiry and Early Assistance	
769	16C.03.02	Critical Area Identification Form and Critical Areas Reports
770	16C.03.03	Pre-application Conference
771	16C.03.04	Technical Assistance Conference
772		
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774	16C.03.05	Minor Activities Allowed without a Permit or Exemption
775	16C.03.06	Exemption Procedural Requirements
776	16C.03.07	Exemptions for Hydrologically Related Critical Areas, Wetlands
777	16C.03.08	Exemptions for Geologically Hazardous Areas Development Authorizations
778	16C.03.09	Exemptions for Upland Wildlife Habitat and Habitats of Local Importance
779	Development Authorizations	
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782	Review Process	
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784	16C.03.12	Determination of Review Process
785	16C.03.13	Development Authorization – Review Procedure
786	16C.03.14	Authorization Decisions – Basis for Action
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788	16C.03.16	Fees and Charges
789		
790	Critical Areas Reports	
791	16C.03.17	Critical Areas Report Requirements
792	16C.03.18	Supplemental Report Requirements for Specific Critical Areas
793		
794	Permit Review Criteria	
795	16C.03.20	Standard Development Permit
796	16C.03.23	Adjustment
797	16C.03.24	Reasonable Use Exception
798	16C.03.25	Minor Revisions to Approved Uses or Developments
799	16C.03.26	Non-Conforming Uses and Facilities
800	16C.03.27	General Critical Areas Protective Measures

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 or Exemption). Exemptions, as provided for in sections 16C.03.07 through 16C.03.09, shall be considered as development authorization.
- 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.
- 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 or Exemption (16C.03.05), the County shall consider available information

847 to determine if a critical area is likely to be present. The presence of a critical area found on
848 the paper and electronic maps within or adjacent to the property proposed for development is
849 sufficient foundation for the Administrative Official to require preparation of a critical area
850 identification form, provided by the department, and a preliminary site plan. This critical area
851 identification form and preliminary site plan may be one piece of information used to analyze
852 how a critical area could be affected by a development proposal. To the extent possible, all
853 critical area features must be identified on the critical area identification form and shown on
854 the preliminary site plan prior to the Administrative Official determining whether the
855 development is subject to this title.

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

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

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

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

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

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

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

884 iii) The applicant agrees to provide mitigation that the Administrative Official deems
885 adequate to mitigate for anticipated impacts. Restoration of degraded areas may
886 serve as mitigation; and,

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

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

892 e) As guidance on the practical application of the requirement for critical areas reports,
893 reports will generally fall into the following groups based on increasing complexity and
894 cost of the report:
895 i) Determining the absence of a critical area (sometimes resulting when initial indicators
896 show the likely presence of a critical area);
897 ii) Determining the existence, location and type of a critical area;
898 iii) Determining impacts of an encroachment on a critical area and general mitigation
899 measures;
900 iv) Developing a compensatory mitigation plan for replacement or mitigation of lost
901 wetland or stream channel area.

902 **16C.03.03 Pre-application Conference**

903 Any new development, construction or use falling under the provisions of this title shall be
904 subject to a pre-application conference, except that project review for flood hazards shall follow
905 the pre-application requirements established to administer chapter 16C.05 (Flood Hazard Areas).
906 The department shall schedule a pre-application conference for as soon as is reasonably possible
907 to allow attendance by the project proponent and necessary staff. To assist in project review and
908 discussion, prior to the pre-application conference, the project proponent must submit a
909 preliminary site plan showing the nature and scope of the proposed project along with any
910 existing features of the property having a relationship to the project. The pre-application
911 conference is intended to allow the Administrative Official to:

912 1) Establish the scope of the project and the critical area features involved or potentially
913 impacted;
914 2) Consider the degree to which the project may affect or impair a designated critical area and
915 identify potential concerns that may arise;
916 3) Identify other permits and authorizations which the project proponent may need to obtain;
917 4) Determine whether the project will be processed through the development authorization
918 procedures of this title or coordinated through the review and approval procedures of another
919 development permit or authorization required of the project from Yakima County;
920 5) Provide the proponent with resources and technical assistance (such as maps, scientific
921 information, other source materials, etc.) to assist the proponent in meeting the provisions of
922 this title and any applicable rules and regulations of other agencies and jurisdictions;
923 6) Determine whether there is a need for a preliminary site assessment or a technical assistance
924 conference to better define the critical area issues and alternatives;
925 7) Determine whether the project can be processed as an exemption, or if not, what type of
926 permits or reviews may be needed. Final determination of necessary permits will be made
927 based on the project design and submittal materials;
928 8) Consider whether a preliminary site assessment should be scheduled in the field to determine
929 the applicability of the development standards of this title to the project, based on
930 information contained in the preliminary site plan.

931 **16C.03.04 Technical Assistance Conference**

932 If requested by the project proponent or otherwise determined necessary, the department will
933 arrange a meeting of representatives of those agencies and organizations with expertise, interest,
934 or jurisdiction in the project. In conjunction with the invitation to attend the technical assistance
935 conference, the department will provide the potential participants with a project summary

938 compiled from the pre-application conference. The technical assistance conference may also
939 involve a preliminary site assessment, if it is determined that resolution of issues related to the
940 project can be achieved through an on-site review. The purpose of the technical assistance
941 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 or Exemption.

- 1) The following activities are included under 16C.01.05(1) (Applicability) and are allowed without a permit or exemption:
 - 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. Cutting down trees and shrubs within a buffer is not covered under this provision, but maybe covered under an exemption. 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. Construction or replacement of structural elements is not covered in this provision, but may be covered under an exemption. Cleaning canals, ditches, drains, wasteways etc. without expanding their original configuration is not considered additional earthwork, as long as the cleared materials are 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;

984 g) Noxious weed control within vegetative buffers, if the criteria listed below are met.
985 Control methods not meeting these criteria may still apply for a restoration exemption, or
986 other authorization as applicable:
987 i) Hand removal/spraying of individual plants only;
988 ii) No area wide vegetation removal/grubbing.

989

990 **16C.03.06 Exemption-Procedural Requirements**

991 Certain activities and uses are exempt from some permit processes and shall instead be reviewed
992 using the procedures below, except that Flood Hazard exemptions provided in 16C.05.20.06,
993 shall follow procedures established to administer Chapter 16C.05 (Flood Hazard Areas).

- 994 1) Any exempted development shall be consistent with the policies and provisions of this title.
- 995 2) Only those developments that meet the precise terms of one or more of the listed exemptions
996 may qualify for review under these provisions.
- 997 3) If any part of a proposed development is not eligible for exemption, then a development
998 permit is required for the entire proposed development project.
- 999 4) When a development or use is proposed that does not comply with the bulk, dimensional and
1000 performance standards of this title, such development must also obtain an Adjustment
1001 (16C.03.23).
- 1002 5) All exempted activities shall use reasonable methods to avoid impacts to critical areas. To be
1003 exempt from this title does not give permission to degrade a critical area or ignore risk from
1004 natural hazards. Any incidental damage to, or alteration of, a critical area that is not a
1005 necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the
1006 responsible party's expense, according to section 16C.06.23 (Reclamation).
- 1007 6) The proponent of an exempt activity shall submit a written request for permit exemption to
1008 the Administrative Official that describes the activity and states the exemption requested.
1009 The applicant shall submit to the Administrative Official a written description of the project
1010 that demonstrates compliance with applicable standards.
- 1011 7) The Administrative Official shall review the exemption request to verify that it complies with
1012 this title.
- 1013 8) The Administrative Official shall approve or deny the exemption.
- 1014 9) A formal letter of exemption shall be provided where an exempt activity is approved under
1015 this title. A copy of the exemption shall be kept on file by the Administrative Official. If an
1016 exemption cannot be granted, the Administrative Official shall notify the applicant in writing
1017 of the reason, at which time the applicant may pursue other permit processes under this title.
- 1018 10) Conditions may be attached to the approval of exempted developments and/or uses as
1019 necessary to assure continued consistency of the project with this title.
- 1020 11) Exempt activities are identified in the following locations. Such activities are stated as
1021 exempt from the standard development permits or flood hazard permits. However, this
1022 provision does not exempt an activity from other permits or reviews that may be required
1023 under this title.
 - 1024 a) Those activities listed in sections 16C.03.07 (Exemptions from HRCA, and Wetlands) are
1025 exempt from the standard development permit requirements for Wetlands (16C.07), and
1026 Hydrologically Related Critical Areas Features (16C.06.03);
 - 1027 b) Those activities listed in sections 16C.03.09 (Exemptions for Upland Wildlife Habitat
1028 and Habitat of Local Importance) are exempt from the standard development permit
1029 requirements for Upland Wildlife Habitat and Habitat of Local Importance (16C.06.04);

- c) Those activities listed in sections 16C.03.08 (Exemptions for Geologically Hazardous Areas) are exempt from the standard development permit requirements for Geologically Hazardous Areas (16C.08);
- d) Those activities listed in sections 16C.05.20.060 are exempt from the Flood Hazard Permit requirements for Flood Hazard Areas (16C.05).

16C.03.07 Exemptions for Hydrologically Related Critical Areas, and Wetlands

The following development activities are exempt from standard development permits that are required within Wetlands designated in chapter 16C.07.02 (Designation and Mapping) and Hydrologically Related Critical Areas features designated in section 16C.06.03 (HRCA Features);

- 1) Construction by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this title. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed five hundred cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark;
- 2) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife;
- 3) Development and construction for which the total cost or fair market value, whichever is higher, does not exceed five thousand dollars (adjusted for inflation as determined by the Washington Office of Financial Management using methods provided in RCW 90.58.030(3)(e) and WAC 173-27-040(2)(a)), provided such development and construction does not involve excavation, fill, or other work which is not consistent with the functional properties of stream corridors and other hydrologically related critical areas as set forth in Section 16C.06.05 of this title. The total cost or fair market value of the development shall

1076 include the fair market value of any donated, contributed or found labor, equipment or
1077 materials;

1078 4) Construction or practices normal or necessary for farming, irrigation, and ranching activities,
1079 including agricultural service roads and utilities, construction of a barn or similar agricultural
1080 structure, and the construction and maintenance of irrigation structures including but not
1081 limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of
1082 any size, all processing plants, other activities of a commercial nature, and/or alteration of the
1083 contour of the land by leveling or filling other than that which results from normal
1084 cultivation, shall not be considered normal or necessary farming or ranching activities. A
1085 "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock
1086 hay, grain, silage, or other livestock feed, but shall not include land for growing crops or
1087 vegetation for livestock feeding and/or grazing, nor shall it include normal livestock
1088 wintering operations;

1089 5) Normal maintenance or repair of existing structures or developments, including damage by
1090 accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a
1091 decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to
1092 restore a development to a state comparable to its original condition, including but not
1093 limited to its size, shape, configuration, location and external appearance, within a
1094 reasonable period after decay or partial destruction, except where repair involves total
1095 replacement which is not common practice or causes substantial adverse effects to the
1096 environment. Replacement of a structure or development may be authorized as repair where
1097 such replacement is the common method of repair for the type of structure or development
1098 and the replacement structure or development is comparable to the original structure or
1099 development including but not limited to its size, shape, configuration, location and external
1100 appearance, and the replacement does not cause additional substantial adverse effects to the
1101 environment. The need for replacement resulting from a neglect of maintenance and repair is
1102 not considered a common method of repair. Replacement of non-conforming uses or
1103 facilities may also be subject to section 16C.03.26 (Non-conforming Uses and Facilities);

1104 6) Emergency construction necessary to protect property from damage by the elements. An
1105 "emergency" is an unanticipated and imminent threat, which requires immediate action or
1106 response within a time period too brief to allow full compliance with this title. The following
1107 criteria must exist to qualify any action under an emergency provision:

1108 a) There must be an immediate threat to life, public or private property, or an immediate
1109 threat of serious environmental degradation arising from a natural condition or technical
1110 incident;

1111 b) The emergency response must be confined to the action necessary to protect life or
1112 property from damage;

1113 c) The scope of the emergency response must be limited to the work necessary to relieve the
1114 immediate threat;

1115 d) The emergency response applies only to the period of time in which the actual emergency
1116 exists;

1117 e) The request must be accompanied by a paid permit application or a request for a non-
1118 emergency exemption. Submittal requirements beyond normal exemption submittal
1119 requirements are waived until after the emergency is deemed abated. As soon as the
1120 emergency is deemed abated by appropriate authorities, compliance with the

1121 requirements of this title is required, and may include removal of the emergency
1122 construction if non-structural construction measures can adequately deal with site issues.

1123 7) Construction of a dock, including a community dock, designed for pleasure craft only, for the
1124 private noncommercial use of the owners, lessee or contract purchaser of a single-family and
1125 multiple-family residence. A dock is a landing and moorage facility for watercraft and does
1126 not include recreational decks, storage facilities or other appurtenances. This exception
1127 applies if the fair market value of the dock does not exceed ten thousand dollars, but if
1128 subsequent construction having a fair market value exceeding two thousand five hundred
1129 dollars occurs within five years of completion of the prior construction, the subsequent
1130 construction shall be subject to a standard development permit;

1131 8) The operation, maintenance or construction of canals, waterways, drains, reservoirs, or other
1132 manmade facilities that now exist or are hereinafter created or developed as a part of an
1133 irrigation system;

1134 9) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing
1135 on July 12, 1994, effective date of this Critical Areas Ordinance, for land not within
1136 Shoreline jurisdiction, which were created, developed, or utilized primarily as a part of an
1137 agricultural drainage and diking system;

1138 10) Construction or modification, by or under the authority of the Coast Guard or a designated
1139 port management authority, of navigational aids such as channel markers and anchor buoys;

1140 11) Any project with a certification from the governor pursuant to chapter 80.50 RCW (Energy
1141 facilities — site locations);

1142 12) Watershed restoration projects that are authorized by the sponsor of a watershed restoration
1143 plan and that implements the plan or a part of the plan;

1144 13) Site exploration and investigation activities that are prerequisite to preparation of an
1145 application for development authorization under this chapter, if:
1146 a) The activity will have no significant adverse impact on the environment including but not
1147 limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
1148 b) The activity does not involve the installation of any structure, and upon completion of the
1149 activity the vegetation and land configuration of the site are restored to conditions
1150 existing before the activity;

1151 14) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020
1152 (control of spartina and purple loosestrife), through the use of an herbicide or other treatment
1153 methods applicable to weed control that are recommended by a final environmental impact
1154 statement published by the Department of Agriculture or the Department of Ecology jointly
1155 with other state agencies under chapter 43.21C RCW (SEPA);

1156 15) A public or private project, the primary purpose of which is to improve fish or wildlife
1157 habitat or fish passage:
1158 a) The project has been approved in writing by the Department of Fish and Wildlife as
1159 necessary for the improvement of the habitat or passage and appropriately designed and
1160 sited to accomplish the intended purpose;
1161 b) The project has received hydraulic project approval, when required, by the department of
1162 fish and wildlife pursuant to chapter 75.20 RCW (Hydraulics Code);
1163 c) The Administrative Official has determined that the project is consistent with this title;
1164 d) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181
1165 (Fish Habitat Enhancement Projects) are deemed to be consistent with this title.

1166 16) Hazardous substance remedial actions, which a consent decree, order or agreed order has
1167 been issued pursuant to chapter 70.105D RCW (Model Toxics Control Act) or when the
1168 Department of Ecology conducts a remedial action under chapter 70.105D RCW (Model
1169 Toxics Control Act). The Department of Ecology shall assure that such projects comply with
1170 the substantive requirements of chapter 90.58 RCW (SMA), chapter 173-26 WAC (SMA
1171 Guidelines) and the Shoreline Master Program (YCC Title 16D), when applicable.

1172 17) The removal of trees that are hazardous, posing a threat to public safety, or posing an
1173 imminent risk of damage to private property, from critical areas and buffers, provided that:
1174 a) A dead tree within a buffer may be shortened to the point that the tree will not strike a
1175 structure or defined vehicle parking area. The remainder shall be maintained to provide
1176 wildlife habitat, nesting locations and perch sites. A remainder less than ten (10) feet tall
1177 may be removed completely;
1178 b) A diseased or damaged tree may be removed as determined appropriate by the
1179 Administrative Official;
1180 c) The removed portion of trees should be placed within the vegetative buffer area as
1181 wildlife habitat, unless it will interfere with a maintained vegetation area identified in
1182 section 16C.03.05(a) (Minor Activities), or unless the Administrative Official determines
1183 otherwise. Portions of trees to be removed from the buffer area should be felled to the
1184 outer edge of a vegetative buffer and dragged out. Heavy equipment is not allowed
1185 within the buffer, except within areas identified in 16C.03.05(a) (Minor Activities).
1186 Damaged riparian vegetation must be repaired;
1187 d) Each tree that is felled or topped shall be replaced in a manner acceptable to the
1188 Administrative Official.

1189 **16C.03.08 Exemptions for Geologically Hazardous Areas**

1190 The following development activities are exempt from standard development permits that are
1191 required for Geologically Hazardous Areas designated in chapter 16C.08:

1192 a) Additions to or alteration of existing single family residences;
1193 b) Uses and surface disturbances (clearing and grubbing) that do not include excavation, fill
1194 or irrigation;
1195 c) Structures less than 200 square feet that are not used as a place of employment or
1196 residence (fences, sheds, gazebos, etc.);
1197 d) Oil, gas, wind or other exploration that does not include explosions, roads, excavation or
1198 fill.

1199 **16C.03.09 Exemptions for Upland Wildlife Habitat and Habitats of Local Importance**

1200 The following development activities are exempt from standard development permits that are
1201 required for Upland Wildlife Habitat and Habitats of Local Importance designated in section
1202 16C.06.04:

1203 a) Agricultural and other uses that maintain the existing natural vegetation (rangeland
1204 grazing, stock fences, outdoor recreation, etc.);
1205 b) Any development and associated facilities with less than a $\frac{1}{2}$ acre of disturbance area on
1206 existing lots;
1207 c) New driveways or roads less than $\frac{1}{2}$ mile in length;
1208 d) Additions to or alteration of existing single family residences and associated facilities.

1211 e) Subdivision consistent with zoning districts, with roads totaling less than a 1/4 mile in
1212 length or less. Clustering to reduce infrastructure is encouraged;
1213 f) Development for which a biological assessment or a biological opinion for federal review
1214 is provided.

1215

1216 **16C.03.10 Mitigation requirements**

1217 1) All developments shall demonstrate that all reasonable efforts have been examined with the
1218 intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is
1219 proposed, such alteration shall be avoided, minimized, or compensated for in the following
1220 order of preference:
1221 a) Avoiding the impact altogether by not taking a certain action or parts of an action;
1222 b) Minimizing impacts by limiting the degree or magnitude of the action and its
1223 implementation, by using appropriate technology, or by taking affirmative steps, such as
1224 project redesign, relocation, or timing, to avoid or reduce impacts;
1225 c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
1226 d) Reducing or eliminating the impact over time by preservation and maintenance
1227 operations during the life of the action;
1228 e) Compensating for the impact by replacing, enhancing, or providing substitute resources
1229 or environments;
1230 f) Monitoring the impact and taking appropriate corrective measures.
1231 2) Mitigation for individual actions may include a combination of the above measures.
1232 3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all
1233 adverse impacts to or from critical areas and buffers resulting from a development proposal
1234 or alteration shall be mitigated in accordance with an approved Mitigation Plan. Mitigation
1235 shall not be implemented until after approval of the Mitigation Plan.
1236 4) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the
1237 functions and values of the critical area, and to prevent risk from a hazard posed by a critical
1238 area. When necessary, mitigation may be provided that is out-of-kind and/or off-site.

1239

1240 **Review Process**

1241

1242 **16C.03.11 Application Submittal**

1243 1) Application for a development authorization under this title shall be made on forms provided
1244 by the Department. The application submittal shall include a site plan drawn to scale
1245 showing:
1246 a) the actual shape and dimensions of the property site to be used;
1247 b) existing and proposed structures;
1248 c) excavation, fill, drainage facilities, topography, slope, and;
1249 d) such other information as is needed to determine the nature and scope of the proposed
1250 development, including the maximum extent of the project site with respect to
1251 construction, excavation, equipment and material storage, and other project related work.
1252 2) The site plan should also show the location of all critical areas, such as those identified in
1253 sections 16C.03.02 (Critical Areas Identification Form and Critical Areas Reports) and
1254 16C.03.17 (Critical Areas Report Requirements), include all required critical areas reports
1255 prepared in conformance with 16C.03.17, and include the permit information required either

1256 in YCC Title 16B (Project Permit Administration) or in chapter 16C.05.44 (Flood Hazard
 1257 Protection Administration), as appropriate.

1258 3) To be accepted as complete, a critical area development authorization application must
 1259 include all maps, drawings and other information or data specified by this title or requested
 1260 on the basis of the pre-application conference (16C.03.03), or technical assistance conference
 1261 (16C.03.04).

1262 **16C.03.12 Determination of Review Process**

1263 1) The Administrative Official shall determine from the application submittal, and other
 1264 available information what type of permit or review is required under this title. The
 1265 Administrative Official shall make such determination as early in the application process as
 1266 is possible and shall inform the project applicant in writing of any application needs.
 1267 Available information used in this determination may include:
 1268 a) critical areas identification form;
 1269 b) pre-application conference information;
 1270 c) technical assistance conference information.

1271 2) Specific information on when a permit or review is required, its review process type
 1272 and review criteria are found in the section for each permit or review. However, a
 1273 brief description of each type of permit or review is provided in Table 3-1 below.
 1274 Some permits or reviews are general and all projects will have a general review.
 1275 Some permits are more specialized and apply only in specific cases or situations.
 1276 More than one (1) permit or review may be needed for a project.

1277 **Table 3-1**

1278 **General Permits or Reviews**

Standard Development. Standard development projects include any development not subject to RCW Chapter 90.58, the Shoreline Management Act.

Exemptions. Exemptions are generally minor activities that do not need to go through the permit process.

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.

1281 **16C.03.13 Development Authorization – Review Procedure**

1282 Upon submittal and acceptance of a completed development authorization application, the
1283 Administrative Official shall process and review the application as follows, except that permits
1284 or reviews required for critical areas under chapter 16C.05 (Flood Hazard) shall be processed
1285 using the permit development standards, approval criteria and other provisions established in
1286 chapter 16C.05.

1287 1) Development authorizations shall be processed consistent with review procedures provided
1288 in YCC Title 16B (Project Permit Administration), and with any specific processes
1289 requirements provided in 16C.03.20 through 16C.03.26 (specific permit descriptions),
1290 including but not limited to:

1291 a) submittals;
1292 b) completeness review;
1293 c) notices;
1294 d) hearings;
1295 e) decisions; and,
1296 f) appeals.

1297 2) Development authorizations shall be reviewed for conformance with the applicable
1298 development standards provided in 16C.03.27 (General Critical Areas Protection Measures),
1299 and in chapters 16C.06 through 16C.09, except that:

1300 a) For rangeland livestock grazing operations, the Administrative Official may waive
1301 compliance with development standards in Chapter 16C.06 (Fish and Wildlife Habitat
1302 and the Stream Corridor), 16C.07 (wetlands), 16C.08 (Geologically Hazardous Areas),
1303 and 16C.09 (CARA), except for those uses and activities listed in section 16C.06.10
1304 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be
1305 provided that has been prepared using all applicable US Department of Agriculture -
1306 National Resource Conservation Service best management practices designed to protect
1307 streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing
1308 operations. An acceptable Resource Management Plan is deemed to consist of acceptable
1309 critical areas protection measures capable of dealing with impacts of grazing activities
1310 dispersed across large areas. This provision is not intended to apply to pasture grazing,
1311 hobby farms, or confinement feeding operations.

1312 3) Decisions on a development authorization shall be consistent with section 16C.03.14
1313 (Authorization Decisions – Basis for Action), 16C.03.15 (Conditional Approval of
1314 Development Authorization) and with any specific decision criteria provided under the
1315 sections for each relevant permit type, as provided in 16C.03.20 through 16C.03.26 (specific
1316 permit descriptions).

1317 **16C.03.14 Authorization Decisions – Basis for Action**

1318 The action on any development authorization under this title shall be based upon the following
1319 criteria:

1320 1) Impact of the project to critical area features on the property or on abutting or adjacent
1321 properties;
1322 2) Danger to life and property that would likely occur as a result of the project;
1323 3) Compatibility of the project with the critical area features on, adjacent to, or near the
1324 property;
1325 4) Conformance with the applicable development standards in this title;

1327 5) Requirements of other applicable local, state or federal permits or authorizations, including
1328 compliance with flood hazard mitigation requirements of Chapters 16C.05.20 through
1329 16C.05.72;

1330 6) Adequacy of the information provided by the applicant or available to the department;

1331 7) Ability of the project to satisfy the purpose and intent of this title;

1332 8) Based upon the project evaluation, the decision maker shall take one of the following actions:
1333 a) Grant the development authorization;
1334 b) Grant the development authorization with conditions, as provided in 16C.03.15
1335 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or
1336 adjacent to the project site;
1337 c) Deny the development authorization.

1338 9) The decision by the Administrative Official on the development authorization shall include
1339 written findings and conclusions stating the reasons upon which the decision is based.

1340

16C.03.15 Conditional Approval of Development Authorization

1341 In granting any development authorization, the decision maker may impose conditions to:

1342 1) Accomplish the purpose and intent of this title;

1343 2) Eliminate or mitigate any identified specific or general negative impacts of the project on the
1344 critical area;

1345 3) Restore important resource features that have been degraded or lost because of past or
1346 present activities on the project site;

1347 4) Protect designated critical areas from damaging and incompatible development;

1348 5) Ensure compliance with specific development standards in this title.

1349

16C.03.16 Fees and Charges

1350 The board of county commissioners establishes the schedule of fees and charges listed in Yakima
1351 County Code, Title 20 (Yakima County Fee Schedule), for development authorizations,
1352 variances, appeals and other matters pertaining to this title.

1353

Critical Areas Reports

1354

16C.03.17 Critical Areas Report Requirements

1355 1) The Administrative Official may require a critical areas report, paid for by the applicant in
1356 accordance with YCC Title 16B.04, where determined necessary through the critical area
1357 identification form, technical assistance conference, site investigation, or other portion of the
1358 project review.

1359 2) A qualified professional, as defined by this title, shall prepare the report utilizing best
1360 available science. The intent of these provisions is to require a reasonable level of technical
1361 study and analysis sufficient to protect critical areas. The analysis shall be commensurate
1362 with the value or sensitivity of a particular critical area and relative to the scale and potential
1363 impacts of the proposed activity.

1364 3) The critical area report shall:
1365 a) Demonstrate that the submitted proposal is consistent with the purposes and specific
1366 standards of this title;

1367 b) Describe all relevant aspects of the development proposal; all critical areas adversely
1368 affected by the proposal including any geologic or flood hazards; all risks to critical
1369 areas; and any other information necessary to evaluate the proposal.

1373 areas, the site, and other public and private properties and facilities resulting from the
1374 proposal; and assess impacts on the critical area from activities and uses proposed; and
1375 c) Identify proposed mitigation and protective measures as required by this title.

1376 4) The critical areas report shall include information to address the Supplemental Report
1377 Requirements for Specific Critical Areas (16C.03.18).

1378 5) The Administrative Official shall review the critical areas report for completeness and
1379 accuracy, and shall consider the recommendations and conclusions of the critical areas report
1380 to assist in making decisions on development authorizations and to resolve issues concerning
1381 critical areas jurisdiction, appropriate mitigation, and protective measures.

1382 6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be
1383 demonstrated to the satisfaction of the Administrative Official that the previously prepared
1384 report is adequate for current analysis. Future land use applications may require preparation
1385 of new, amended, or supplemental critical area assessment reports. Reports prepared for
1386 nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if
1387 relevant to the current analysis and meeting the above standards. The Administrative Official
1388 may also require the preparation of a new critical area assessment report or a supplemental
1389 report when new information is found demonstrating that the initial assessment is in error. If
1390 the Administrative Official requires more information in the report, he/she shall make the
1391 request in writing to the applicant stating what additional information is needed and why.

1392 7) The Administrative Official may reject or request revision of the critical areas report when
1393 the Administrative Official can demonstrate that the assessment is incomplete, or does not
1394 fully address the critical areas impacts involved.

1395 8) To avoid duplication, the reporting requirements of this chapter shall be coordinated if more
1396 than one critical area report is required for a site or development proposal.

1397 9) Applicants should provide reports and maps to the County in an electronic format that allows
1398 site data to be incorporated into the County critical areas database, provided that the County
1399 may waive this requirement for single-family developments. Applicants are encouraged to
1400 coordinate with the Administrative Official regarding electronic submittal guidelines. This
1401 requirement shall not be construed as a requirement to use specific computer software.

1402 10) At a minimum, a critical areas report shall include the following information:

1403 a) A site plan showing the proposed development footprint and clearing limits, and all
1404 relevant critical areas and buffers within and abutting the site, including but not limited to
1405 effects related to clearing, grading, noise, light/glare, modification of surface or
1406 subsurface flow, drilling, damming, draining, creating impervious surface, managing
1407 stormwater, releasing hazardous materials, and other alterations. Projects in frequently
1408 flooded areas must comply with the requirements of section 16C.05.20 through
1409 16C.05.72. For projects on or adjacent to geologically hazardous areas or areas subject to
1410 high floodwater depth or velocity the report shall identify the type of hazard and assess
1411 the associated risks posed by the development to critical areas, the site, and other public
1412 and private properties and facilities that are the result from the proposal, and assess
1413 impacts on the critical area from activities and uses proposed;

1414 b) A written description of the critical areas and buffers on or abutting the site, including
1415 their size, type, classification or rating, condition, disturbance history, and functions and
1416 values. For projects on or adjacent to geologically hazardous areas or areas subject to
1417 high floodwater depth or velocity the description shall identify the type and
1418 characteristics of the hazard;

1419 c) An analysis of potential adverse critical area impacts associated with the proposed
1420 activity. For geologically hazard areas, also assess the risks posed by the development to
1421 critical areas, the site, and other public and private properties and facilities that are the
1422 result from the proposal, and assess impacts on the critical area from activities and uses
1423 proposed;

1424 d) An explanation of how critical area impacts or risks will be avoided and/or minimized,
1425 how proposed mitigation measures will prevent or minimize hazards, why the proposed
1426 activity requires a location on or access across a critical area, the on-site design
1427 alternatives, and why alternatives are not feasible;

1428 e) When impacts cannot be avoided, the report shall include a plan describing mitigation to
1429 replace critical area functions and values altered as a result of the proposal, or to reduce
1430 flood or geologic hazards to critical areas, the site, and other public and private
1431 properties. For projects on or adjacent to geologically hazardous areas or areas subject to
1432 high floodwater depth or velocity the plan shall address mitigation for impacts to critical
1433 areas, the site, and other public and private properties and facilities that are the result
1434 from the proposal, and assess impacts on the critical area from activities and uses
1435 proposed;

1436 f) The dates, names, and qualifications of the persons preparing the report and
1437 documentation of analysis methods including any fieldwork performed on the site; and

1438 g) Additional reasonable information requested by the Administrative Official for the
1439 assessment of critical areas impacts or otherwise required by the subsequent articles of
1440 this title.

1441 11) A critical area report may be supplemented by or composed, in whole or in part, of any
1442 reports or studies required by other laws and regulations or previously prepared for and
1443 applicable to the development proposal site, as approved by the Administrative Official.

1444 12) The Administrative Official may limit the required geographic area of the critical area report
1445 as appropriate.

1446 13) Compensatory Mitigation Plans - When compensatory mitigation, as described in section
1447 16C.03.10 (Mitigation Requirements) is required or proposed for wetland areas or stream
1448 channels, the applicant shall submit for approval by Yakima County a mitigation plan as part
1449 of the critical area report, which includes:

1450 a) Environmental Goals and Objectives. The mitigation plan shall include a written report
1451 identifying environmental goals and objectives of the proposed compensation including:
1452 i) A description of the anticipated impacts to the critical areas, mitigating actions
1453 proposed, and the purposes of the compensation measures, including the site selection
1454 criteria, identification of compensation goals and objectives, identification of desired
1455 resource functions, dates for beginning and completion of site compensation
1456 construction activities, and an analysis of the likelihood of success of the
1457 compensation project. The goals and objectives shall be related to the functions and
1458 values of the impacted critical area.

1459 b) A review of the best available science supporting the proposed mitigation;

1460 c) A description of the report author's experience to date in restoring or creating the type of
1461 critical area proposed;

1462 d) Performance Standards. The mitigation plan shall include measurable specific criteria for
1463 evaluating whether or not the goals and objectives of the mitigation project have been
1464 successfully attained;

1465 e) Detailed Construction Documents. The mitigation documents shall include written
1466 specifications and plans describing the mitigation proposed, such as:
1467 i) The proposed construction sequence, timing, and duration;
1468 ii) Grading and excavation details;
1469 iii) Erosion and sediment control features;
1470 iv) A planting plan specifying plant species, quantities, locations, size, spacing, and
1471 density;
1472 v) Measures to protect and maintain plants until established, and;
1473 vi) Documents should include scale drawings showing necessary information to convey
1474 both existing and proposed topographic data, slope, elevations, plants and project
1475 limits.

1476 f) Monitoring Program. The mitigation plan shall include a program for monitoring
1477 construction of the compensation project and for assessing a completed project. A
1478 protocol shall be included outlining the schedule for site monitoring (for example,
1479 monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the
1480 monitoring data will be evaluated to determine if the performance standards are being
1481 met. A monitoring report shall be submitted as needed to document milestones,
1482 successes, problems, and contingency actions of the compensation project. The
1483 compensation project shall be monitored for a period necessary to establish that
1484 performance standards have been met, but not for a period less than five (5) years.

1485 g) Contingency Plan. The mitigation plan shall include identification of potential courses of
1486 action, and any corrective measures to be taken if monitoring or evaluation indicates
1487 project performance standards are not being met.

1488 h) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary,
1489 to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring
1490 fulfillment of the compensation project, monitoring program, and any contingency
1491 measures shall be posted in accordance with section 16C.03.27(1) (Financial
1492 Guarantees).

1493 14) Innovative Mitigation.

1494 a) Yakima County encourages innovative mitigation projects that are based on the best
1495 available science. The mitigation plan shall be used to satisfy the requirements of this
1496 chapter and provide relief and/or deviation as appropriate from the specific standards and
1497 requirements thereof. Advance mitigation or mitigation banking are examples of
1498 alternative mitigation projects allowed under the provisions of this Section wherein one
1499 or more applicants, or an organization with demonstrated capability, may undertake a
1500 mitigation project together if it is demonstrated that all of the following circumstances
1501 exist:
1502 i) Creation or enhancement of a larger system of critical areas and open space is
1503 preferable to the preservation of many individual habitat areas;
1504 ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
1505 iii) The group demonstrates that long-term management of the habitat area will be
1506 provided;
1507 iv) There is a clear potential for success of the proposed mitigation at the identified
1508 mitigation site;
1509 v) There is a clear likelihood for success of the proposed plan based on supporting
1510 scientific information and demonstrated experience in implementing similar plans;

1511 vi) The proposed project results in equal or greater protection and conservation of critical
1512 areas than would be achieved using parcel-by parcel regulations and/or traditional
1513 mitigation approaches;

1514 vii) The plan is consistent with the general purpose and intent of this chapter;

1515 viii) The plan shall contain relevant management strategies considered effective and
1516 within the scope of this chapter and shall document when, where, and how such
1517 strategies substitute for compliance with the specific standards herein; and

1518 ix) The plan shall contain clear and measurable standards for achieving compliance with
1519 the purposes of this chapter, a description of how such standards will be monitored
1520 and measured over the life of the plan, and a fully funded contingency plan if any
1521 element of the plan does not meet standards for compliance.

1522 b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the
1523 required wetland replacement ratios.

1524 c) Projects that propose compensatory wetland mitigation shall also use the standards in
1525 sections 16C.07.05 (Compensatory Mitigation Requirements). For those situations where
1526 a mitigation bank may provide an opportunity for mitigation, then the requirements in
1527 section 16C.07.06 (Wetland Mitigation Banks) shall apply.

1528 **16C.03.18 Supplemental Report Requirements for Specific Critical Areas**

1529 1) **Stream Corridors.** When a critical areas report is required for a stream corridor or
1530 hydrologically related critical area, it shall include the following:

1531 a) A habitat and native vegetation conservation strategy that addresses methods to protect
1532 and enhance the functional properties listed in section 16C.06.05 (Functional Properties);

1533 b) Where there is evidence that proposed construction lies within an immediate zone of
1534 potential channel migration, representing a future hazard to the construction, a hydrologic
1535 analysis report may be required. The report shall assume the conditions of the one-
1536 hundred-year flood, include on-site investigative findings, and consider historical
1537 meander characteristics in addition to other pertinent facts and data.

1538 2) **Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat and
1539 Habitats of Local Importance, it shall include the following:

1540 a) Habitat Assessment: A habitat assessment is an investigation of the project area to
1541 evaluate the presence or absence of such species, and areas with which such species have
1542 a primary association. The presence or absence assessment shall incorporate the time
1543 sensitive nature of species use. The landowner may submit an assessment prepared by the
1544 state or federal agency with jurisdiction over the species. This assessment is time sensitive
1545 and the assessment must be completed no more than 36 months prior to the date the critical
1546 areas application is deemed complete.

1547 b) If the habitat assessment determines that such habitat area is present on site, a
1548 management plan is required that follows published federal, or state, management
1549 recommendations. The Administrative Official shall confer with the appropriate agency
1550 and consider their comments through the review process.

1551 3) **Wetlands** When a critical areas report is required for Wetlands, it shall include the
1552 following:

1553 a) The exact location of a wetland's boundary and wetland rating shall be determined
1554 through the performance of a field investigation by a qualified wetland professional
1555 applying the *Washington State Wetlands Identification and Delineation Manual* (Ecology

1557 Publication #96-94 - <http://www.ecy.wa.gov/pubs/9694.pdf>) as required by RCW
1558 36.70A.175 (Wetlands to be delineated in accordance with manual), and the *Washington*
1559 *State Wetland Rating System for Eastern Washington* (Ecology Publication # 04-06-15),
1560 as amended;

1561 b) All delineated wetlands and required buffers within two hundred (200) feet of the project
1562 area shall be depicted on the site plan. For areas off-site of the project site, wetland
1563 conditions within 200 feet of the project boundaries may be estimated using the best
1564 available information. Best available information should include, but not be limited to
1565 aerial photos, land based photos, soils maps, or topographic maps;

1566 c) A critical area report for wetlands shall contain an analysis of the wetlands including the
1567 following site- and proposal-related information:
1568 i) A statement specifying all assumptions made and relied upon;
1569 ii) Documentation of any fieldwork performed on the site, including field data sheets for
1570 delineations, the wetland rating form, baseline hydrologic data, etc.;
1571 iii) A description of the methodologies used to conduct the wetland delineations, or
1572 impact analyses including references;
1573 iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;

1574 d) For projects that will affect the wetland or its buffer, provide the following:
1575 i) A habitat and native vegetation conservation strategy that addresses methods to
1576 protect and enhance on-site habitat and wetland functions and values listed in section
1577 16C.07.04(1) (Wetland Functions and Rating), and section 16C.06.05 (Functional
1578 Properties);
1579 ii) Mitigation sequencing pursuant to section 16C.03.10 (Mitigation Requirements) to
1580 avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of
1581 wetland functions and values. Mitigation ratios may be necessary and should follow
1582 the guidance provided in section 16C.07.05 (Compensatory Mitigation) of the
1583 wetland chapter.

1584 4) **Geologically Hazardous Areas** When a critical areas report is required for a Geologically
1585 Hazardous Area, it shall include the following, provided that the Administrative Official may
1586 determine that any portion of these requirements is unnecessary given the scope and/or scale
1587 of the proposed development:

1588 a) A description of the site features, including surface and subsurface geology. This may
1589 include surface exploration data such as borings, drill holes, test pits, wells, geologic
1590 reports, and other relevant reports or site investigations that may be useful in making
1591 conclusions or recommendations about the site under investigation;

1592 b) A description of the geologic processes and hazards affecting the property, including a
1593 determination of the actual hazard types for any Suspected and Risk Unknown hazards
1594 identified in the affirmative determination of hazard (16C.08.04);

1595 c) A description of the vulnerability of the site to seismic and other geologic processes and
1596 hazards;

1597 d) A description of any potential hazards that could be created or exacerbated as a result of
1598 site development;

1599 e) For developments in or affecting landslide hazard areas the report shall also include:
1600 i) Assessments and conclusions regarding slope stability including the potential types of
1601 landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip,
1602 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.

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 of vegetative buffer standards listed in table 6-1 and 6-2 may be allowed down to the minimum buffer width listed. Reductions below the minimum may be considered but require that stricter criteria be met in sub-section 3(d) below. 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

1649 of development standards shall be made in writing and shall specify the standard(s) for which
1650 an adjustment is sought and the reasons why the adjustment is sought.

1651 3) **Decision Criteria** - Decisions on Adjustment permits shall be based on the general decision
1652 criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action) together
1653 with the criteria below.

- 1654 a) A particular standard may be reduced or modified as long as the Administrative Official
1655 determines that the adjustment and/or reduction:
 - 1656 i) is consistent with the purpose of this title;
 - 1657 ii) is consistent with the intent of the standard; and,
 - 1658 iii) will not result in degradation of the critical area.
- 1659 b) The Administrative Official shall consider the following:
 - 1660 i) The proximity and relationship of the project to any critical area and its impact on the
1661 critical area;
 - 1662 ii) The functions and values that the critical area performs;
 - 1663 iii) The overall intensity of the proposed use;
 - 1664 iv) The presence of threatened, endangered, or sensitive species;
 - 1665 v) The site's susceptibility to severe erosion;
 - 1666 vi) The use of a buffer averaging or buffer enhancement plan by the applicant which uses
1667 native vegetation or other measures which will enhance the functions and values of
1668 the Hydrologically Related Critical Area (HRCA).
- 1669 c) When granting an adjustment to the provisions of this chapter, the Administrative
1670 Official may require alternative measures to be taken to protect the function and value of
1671 the HRCA. These alternative measures may include, but are not limited to, the following:
 - 1672 i) Restoration of impaired channels and banks to conditions which support natural
1673 stream flows, fish habitat, and other values;
 - 1674 ii) Restoration, enhancement, and preservation of soil characteristics and the quantity
1675 and variety of native vegetation;
 - 1676 iii) Provisions for erosion control and for the reduction and filtration of stormwater
1677 runoff to moderate the effects of the project on the stream channel and the available
1678 area of vegetation separating the project from the stream channel;
 - 1679 iv) Removal or alteration of existing manmade facilities associated with stream channels,
1680 or drainage ways which improve stream-flow characteristics or improve the
1681 movement or exchange of surface waters or floodwaters;
 - 1682 v) Replacement of lost wetlands or other stream corridor features on an acre-for-acre
1683 and equivalent value or at a higher acre and/or value basis;
 - 1684 vi) Conservation easements for key portions of stream corridor property and/or their
1685 inclusion within public or private conservation programs which provide for their
1686 long-term preservation and maintenance.
 - 1687 vii) Vegetative Buffer Averaging. Vegetative buffers may be modified by averaging
1688 buffer widths. Buffer averaging is preferred in the use of mitigation sequencing
1689 (16C.03.10 Mitigation Requirements), over a reduction in the buffer standards.
- 1690 d) The following additional criteria must be met to reduce the critical areas stream and
1691 wetland buffers found in tables 6-1 and 6-2 below the minimum listed in the respective
1692 tables.
 - 1693 i) There is a hardship related to maintenance of the minimum buffer width that results
1694 from parcel boundaries or existing on-site development.

ii) When warranted under (a) above, the buffer width shall be the maximum possible while meeting the minimum needs of the proposal.

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)

1740 attached to the original permit and is consistent with this title for the area in which the
1741 project is located;

1742 iv) The use authorized pursuant to the original permit is not changed;
1743 v) No additional significant adverse environmental impact will be caused by the project
1744 revision.

1745 2) **Process** – Minor revisions to existing permits shall be processed as a Type I review, as
1746 provided under YCC Title 16B (Project Permit Administration). Parties of record to the
1747 original permit shall be notified of the revision, though a comment period is not required.
1748 3) **Decision Criteria** - Decisions on permit revisions shall be based on the general decision
1749 criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action).

1750 **16C.03.26 Non-Conforming Uses and Facilities**

1751 Non-Conforming Uses and Facilities are classified as either conforming uses with non-
1752 conforming structures or areas, or as non-conforming uses, as described in subsection 1 below.
1753 Both types have different review processes and decision criteria, as provided below in
1754 subsections 2 and 3.

1755 1) **Classification Criteria** – There may be situations that do not conform to the standards or
1756 regulations of this title. These situations are characterized as:
1757 a) **Non-conforming Uses**. Uses of a structure or land that were lawfully established at the
1758 time of their initiation but are currently prohibited by this title are non-conforming uses,
1759 and may utilize structures or land areas that are also non-conforming. A non-conforming
1760 use that is discontinued for any reason for more than one year shall have a presumption of
1761 intent to abandon, shall not be re-established, and shall lose its non-conforming status,
1762 unless an Adjustment (16C.03.23) is obtained to extend the length of time, based on
1763 documentation showing that an intent to abandon did not exist during the period of
1764 discontinuance. An Adjustment request may be submitted after the deadline has passed.
1765 In the case of destruction or damage where reconstruction costs exceed 50% of the
1766 assessed value, the structure shall not be rebuilt;
1767 b) **Conforming Uses with Non-conforming Structures or Areas** are structures or areas for
1768 conforming uses that were lawfully established at the time of their initiation, but currently
1769 do not conform to the bulk, dimensional or other development standards of this title.
1770 Structures or areas in locations approved under a permit shall not be considered non-
1771 conforming. Non-conforming outdoor areas that have not been used or maintained for 5
1772 consecutive years shall lose their non-conforming status and may not be reestablished;
1773 c) Any non-conforming structure, area, or use may be maintained with ordinary care
1774 according to the provisions in 16C.01.05 (Applicability) and 16C.03.05 (Minor Activities
1775 Allowed without a Permit or Exemption) and 16C.03.06 (Exemptions – Procedural
1776 Requirements), and do not require additional review under these non-conforming
1777 provisions.
1778 2) **Process**
1779 a) Alterations to conforming uses with non-conforming structures or areas shall be allowed
1780 under the following process requirements with the understanding that other permits or
1781 reviews may also be required under this title:
1782 i) Those that do not increase the existing non-conformity and otherwise conform to all
1783 other provisions of this title are allowed without additional review under these non-
1784 conforming provisions;

1786 ii) Those that increase the non-conformity, including establishing additional square
1787 footage within a buffer, are allowed without additional review under these non-
1788 conforming provisions; however, an Adjustment must be obtained for the increased
1789 non-conformity;
1790 iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value
1791 shall be processed as provided in subsections i) and ii) above;
1792 iv) A nonconforming structure which is moved any distance shall be processed as
1793 provided in subsections 1 and 2 above;
1794 v) Reconstruction or repair of structures destroyed or damaged 75% or more of the
1795 assessed value of the structure (not the whole property), including that resulting from
1796 neglect of maintenance or repair, shall be processed under these non-conforming
1797 provisions as a Type II review under YCC Title 16B (Project Permit Administration).

1798 b) **Alterations to Non-Conforming Uses**

1799 i) Those involving expansion or alteration within an existing structure, but do not
1800 include alterations to outdoor areas, or expansions of the building's height or square
1801 footage are allowed without additional review under these non-conforming
1802 provisions.
1803 ii) Alterations to non-conforming uses, including their non-conforming structures or
1804 areas that do not qualify under paragraph i) above, shall be processed under these
1805 non-conforming provisions as a Type II review, as provided under YCC Title 16B
1806 (Project Permit Administration).

1807 3) **Decision Criteria**

1808 a) Decisions on projects that require review under the non-conforming provisions, as
1809 identified under subsection (1) above shall be based on the general decision criteria found
1810 in section 16C.03.14 (Authorization Decisions – Basis for Action) together with the
1811 criteria below.
1812 b) Applications for conforming uses with non-conforming structures or areas that are
1813 subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that
1814 the project meets all of the following criteria:
1815 i) Using the original location will not place the structure or people in danger of a
1816 hazard;
1817 ii) The previous structure and any structural shore modification used to protect the
1818 structure did not increase hazards or damage to other properties;
1819 iii) The previous structure and any shore modification used to protect the structure did
1820 not cause significant impacts to the functions and values of the critical area.
1821 c) Decisions on non-conforming uses:
1822 i) A non-conforming use may not be altered or expanded in any manner that would
1823 bring that use into greater non-conformity.

1824 16C.03.27 **General Critical Areas Protective Measures**

1825 The standards below apply to all permits and reviews performed under this title.

1826 1) Financial guarantees to ensure mitigation, maintenance, and monitoring.
1827 a) When mitigation required pursuant to a development proposal is not completed prior to
1828 the Yakima County's final permit approval, such as final plat approval or final building
1829 inspection, the Administrative Official may require the applicant to post a financial
1830 guarantee to ensure that the work will be completed. If the development proposal is
1831

1832 subject to compensatory mitigation for wetlands and streams, the applicant must post a
1833 financial guarantee to ensure mitigation is fully functional. Where financial guarantees
1834 are required by other state or federal agencies for specific mitigation features, additional
1835 financial guarantees for those features are not required under this provision.

1836 b) The financial guarantee shall be in the amount of one hundred and twenty-five percent
1837 (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of
1838 restoring the functions and values of the critical area that are at risk.

1839 c) The financial guarantee may be in the form of a surety bond, performance bond,
1840 assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable
1841 financial institution, or other form acceptable to the Administrative Official, with terms
1842 and conditions acceptable to the Yakima County attorney.

1843 d) The financial guarantee shall remain in effect until the Administrative Official
1844 determines, in writing, that the standards bonded for have been met. Financial guarantees
1845 for wetland or stream compensatory mitigation shall be held for a minimum of five (5)
1846 years after completion of the work to ensure that the required mitigation has been fully
1847 implemented and demonstrated to function, and may be held for longer periods when
1848 necessary.

1849 e) Public development proposals shall be relieved from having to comply with the bonding
1850 requirements of this Section if public funds have previously been committed for
1851 mitigation, maintenance, monitoring, or restoration.

1852 f) Any failure to satisfy critical area requirements established by law or condition, including
1853 but not limited to the failure to provide a monitoring report within thirty (30) days after it
1854 is due or comply with other provisions of an approved mitigation plan, shall constitute a
1855 default, and the Administrative Official may demand payment of any financial guarantees
1856 or require other action authorized by the Yakima County code or any other law.

1857 g) Any funds recovered pursuant to this Section shall be used to complete the required
1858 mitigation. Such funds shall not be deposited in the County General Fund, but rather
1859 provided with a separate account. The County will use such funds to arrange for
1860 completion of the project or mitigation, and follow-up corrective actions.

1861 h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation
1862 of an applicant or violator to complete required mitigation, maintenance, monitoring, or
1863 restoration.

1864 2) Declarative Covenants

1865 a) When a development is authorized by a critical areas permit or review, a declarative
1866 covenant shall, unless determined not to be necessary by the Administrative Official, be
1867 filed with the Yakima County Auditor to inform future owners of the existence of a
1868 critical areas decision that runs with the land and contains limits relating to critical areas
1869 on the property. The declarative covenant shall read substantially as follows:

1870
1871 "This declarative covenant is intended to reduce the incidence of unintentional
1872 violation of the Critical Areas Ordinance. Please be informed about your property
1873 and the laws that apply to it.

1874
1875 This declarative covenant is provided by Yakima County to the current and future
1876 owners of the property described as [enter property description] to inform them
1877 that, at the time of this notice, [enter Critical Areas present] existed within or

1878 adjacent to the property which are protected and regulated by the Yakima County
1879 Critical Areas Ordinance (YCC Title 16C). Development has taken place on the
1880 property under permit or review number [enter permit file number], which
1881 includes requirements that run with the land. Current and future owners should
1882 obtain copies of the permit and also inform themselves about the critical areas that
1883 exist on the property.

1884
1885 This declarative covenant may be removed or modified if critical areas conditions
1886 change, or if the permit is no longer applicable. Contact the Yakima County
1887 Public Services for assistance in doing so.”

1888 b) The declarative covenant shall not be required for a development proposal by a public
1889 agency or public or private utility:
1890 i) Within a recorded easement or right-of-way;
1891 ii) Where the agency or utility has been adjudicated the right to an easement or right-of-
1892 way; or
1893 iii) On the site of a permanent public facility.
1894 c) The applicant shall submit proof that the declarative covenant has been filed for public
1895 record before the Administrative Official approves any development proposal for the
1896 property or, in the case of subdivisions, short subdivisions, planned unit developments,
1897 and binding site plans, at or before recording.
1898 3) Subdivision Standards - The following standards apply to all permits or reviews under the
1899 Subdivision Ordinance (YCC Title 14) that contain critical areas:
1900 a) All subdivisions that contain critical areas shall be eligible for density bonuses or other
1901 development incentives, as provided in the Subdivision Ordinance (YCC Title 14) and
1902 Zoning Ordinances (YCC Titles 15 and 15A);
1903 b) Critical areas shall be actively protected through the following:
1904 i) Roads and utilities for the subdivision shall avoid critical areas and their buffers, as
1905 much as possible;
1906 ii) When Geologically Hazardous Areas (excluding Erosion, Over steepened Slopes of
1907 Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway,
1908 Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Buffers fall
1909 within the boundary of a subdivision:
1910 (1) Said critical areas shall be protected by placing them entirely within a separate
1911 critical area tract, or by including them entirely within one of the developable
1912 parcels. Other options, such as conservation easements and building envelopes
1913 may be deemed by the Administrative Official as meeting this provision when
1914 special circumstances obstruct the viability of this provision;
1915 (2) For those new lots that do contain said critical areas, useable building envelopes
1916 (5,000 square feet or more for residential uses) shall be provided on the plat that
1917 lie outside said critical areas.
1918 iii) New lots partially within the floodplain shall provide a usable building envelope
1919 (5,000 square feet or more for residential uses) outside the floodplain;
1920 iv) New lots entirely within the floodplain shall be at least one (1) acre in area;

1922 v) For new lots containing streams, wetlands, and/or vegetative buffers, outdoor use
1923 envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the
1924 plat that lie outside said critical areas;
1925 vi) Degraded vegetative buffers shall be restored, or provided with protection measures
1926 that will allow them to recover;
1927 vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and
1928 relevant information about them disclosed on the final plat.
1929

Chapter 16C.04 ENFORCEMENT AND PENALTIES

Sections:

1934	16C.04.01	Enforcement Responsibilities Generally
1935	16C.04.02	Enforcement Responsibilities – Chapters 16C.05.20 through 16C.05.72
1936		Flood Hazard Permits
1937	16C.04.03	Violation – Penalty

16C.04.01 Enforcement Responsibilities Generally

1941 It shall be the duty of the Administrative Official or his designee to enforce the provisions of the
1942 Critical Areas Ordinance pertaining to all development within the jurisdiction of this title, except
1943 as expressly noted in Section 16C.04.03 below pertaining to flood hazard permits. Whenever any
1944 development is found to be in violation of this title or a development authorization issued
1945 pursuant to this title, the Administrative Official or his designee may order any work on such
1946 development stopped by serving written notice on any person engaged in the wrongdoing or
1947 causing such development to be done. The notice shall be in the form of a "cease and desist"
1948 order and shall indicate corrective actions necessary to fulfill authorization conditions and/or
1949 terms of this title and the time within which such corrections shall occur. No further development
1950 shall be authorized unless and until compliance with the development authorization conditions
1951 and/or terms of this title has been achieved to the satisfaction of the Administrative Official.

16C.04.02 Enforcement Responsibilities – Chapter Flood Hazard Permits

1955 It shall be the duty of the Chief Building Official or his designee to enforce the provisions of
1956 Chapter 16C.05. Whenever any development is found to be in violation of said chapters or a
1957 permit issued pursuant to said chapters, the Chief Building Official may order any work on such
1958 development stopped by serving written notice on any persons engaged in the doing or causing
1959 such development or substantial development to be done. Any such persons shall forthwith stop
1960 such work until authorized by the Chief Building Official to proceed with the work.

16C.04.03 Penalties

1963 a) Violation of the provisions of this title or failure to comply with any of its requirements
1964 constitutes a misdemeanor and a public nuisance. Any person who violates or fails to comply
1965 with any of its requirements shall, upon conviction in a court of competent jurisdiction, be fined
1966 not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and
1967 in addition shall pay all costs and expenses involved in the case. Each day such violation
1968 continues shall be considered a separate offense; however, no additional action will be initiated
1969 pending the disposition of any previous suit or complaint.
1970 b) It shall be the affirmative duty of the county prosecutor's office to seek relief under this
1971 section for violations of this title.
1972 c) Nothing herein shall prevent the county prosecutor's office from taking such other lawful
1973 action, legal and/or equitable, as is necessary to prevent or remedy any violation.
1974 d) In addition to any criminal proceedings brought to enforce this title and in addition to any fine
1975 or imprisonment provided for therein, continuing violations of this title may be enjoined or

1976 ordered abated in a civil proceeding for injunction or for abatement.
1977 actions, such violations are declared to be public nuisances. Any person, firm, or corporation
1978 violating the provisions of this title shall be liable for all costs of such proceedings, including
1979 reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in
1980 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
- 16C.05.20.030 Principles
- 16C.05.20.050 Applicability
- 16C.05.20.060 Exemptions
- 16C.05.20.070 Interpretations
- 16C.05.20.070 Interpretations
- 16C.05.20.090 Warning and Disclaimer of Liability

16C.05.20.010

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 "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, are 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.

16C.05.20.030 Principles

(a) 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.

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

- (1) To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
- (2) To meet the minimum requirement of the National Flood Insurance program;
- (3) 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 or 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

2027 proposed project shall be submitted to the department for approval.

2028 (4) The granting of a permit for any development or use shall not constitute a representation,
2029 guarantee or warranty of any kind or nature by Yakima County, or any official or employee
2030 thereof, of the practicality or safety of any structure or use proposed and shall create no liability
2031 upon or cause of action against such public body, official or employee for any damage that may
2032 result thereto.

2033
2034 **16C.05.20.060 Exemptions** The following uses and activities are exempt from the
2035 provisions of Chapters 16C.05.20 through 16C.05.72:

2036 (1) The alteration or substantial improvement of any structure listed on the National Register
2037 of Historic Places or a state inventory of historic places;
2038 (2) The installation and maintenance of aboveground utility transmission lines and poles;
2039 (3) Private driveways, fences and other accessory activities and/or uses necessary for
2040 agricultural uses which the building official determines will not unduly decrease flood storage or
2041 capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by
2042 floodwaters, and will resist flotation and collapse;
2043 (4) Construction and practices normal or necessary for agricultural uses. The construction of
2044 an accessory barn or similar agricultural structure, designed to have a low flood-damage
2045 potential, not involving substantial cutting, filling, or watercourse modification, is subject to
2046 Section 16C.05.28.020(3)(a through e). (Ref. IRC 323)

2047
2048 **16C.05.20.070 Interpretations**

2049 (a) In the interpretation and application of Chapters 16C.05.20 through 16C.05.72, the provisions
2050 shall be considered as minimum requirements, shall be liberally construed in favor of Yakima
2051 County, and deemed neither to limit or repeal any other powers granted under state statute. Its
2052 provisions shall be applied in addition to and as a supplement to provisions of the Yakima
2053 County Codes (YCC), Title 13, Building and Construction, YCC Title 14 Subdivision and (YCC
2054 (YCC Title 15 and 15A) Zoning Ordinances, and the Shoreline Master Program (YCC Title
2055 16D). Chapters 16C.05.20 through 16C.05.72 are not intended to repeal, abrogate or impair any
2056 existing easements, covenants, or deed restrictions. However, where these chapters and other
2057 ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the
2058 more stringent requirement shall prevail.

2059 (b) In an interpretation as to an exact location of the boundaries of the special flood hazard areas
2060 (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the
2061 location of the boundary shall be given a reasonable opportunity to appeal the interpretation.
2062 Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and
2063 regulations of the National Flood Insurance Program (44 CFR 59, etc.) (Ref. IBC 104.1).

2064
2065 **16C.05.20.080 Compliance** No structure or land shall hereafter be used, constructed,
2066 located, extended, converted or altered without full compliance with the terms of Chapters
2067 16C.05.20 through 16C.05.72 and other applicable regulations.

2068
2069 **16C.05.20.090 Warning and Disclaimer of Liability** The degree of flood protection
2070 required by Chapters 16C.05.20 through 16C.05.72 is considered reasonable for regulatory
2071 purposes and is based on scientific and engineering considerations. Larger floods can and will
2072 occur on rare occasions. Flood heights may be increased by manmade or natural causes. Chapters

2073 16C.05.20 through 16C.05.72 do not imply that land outside the area of special flood hazards or
2074 uses permitted within such area will not be subject to flooding or flood damage.

2075 **16C.05.28 FLOOD HAZARD PROTECTION STANDARDS**

2077 Sections:

2078 16C.05.28.010 General Standards
2079 16C.05.28.020 Specific Standards

2081 **16C.05.28.010 General Standards**

2082 The following regulations shall apply in all special flood hazard areas:

2083 (a) Anchoring and Construction Techniques.

2084 (1) All new construction and substantial improvements shall be:

2085 (A) Anchored to prevent flotation, collapse or lateral movement of the structure; and
2086 (B) Constructed using materials and utility equipment resistant to flood damage; and
2087 (C) Constructed using methods and practices that minimize flood damage; and
2088 (D) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other
2089 service facilities shall be designed and/or otherwise elevated or located so as to prevent water
2090 from entering or accumulating within the components during conditions of flooding.

2091 (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or
2092 lateral movement, and shall be installed using methods and practices that minimize flood
2093 damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties
2094 to ground anchors (Reference FEMA's Manufactured Home Installation in Flood Hazard Areas
2095 guidebook for additional techniques). Anchoring shall meet the specifications set forth below for
2096 structures located within one hundred feet of a floodway or the ordinary high water mark if no
2097 floodway has been established.

2098 (3) All new construction and any improvements or additions to existing floodproofed
2099 structures that would extend beyond the existing floodproofing located within one hundred feet
2100 of the floodway or one hundred feet of the ordinary high water mark if no floodway has been
2101 established, shall be elevated to a height equal to or greater than the base flood, using zero-rise
2102 methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that
2103 non-zero-rise construction methods will not impede the movement of floodwater or displace a
2104 significant volume of water. The size and spacing of any support devices used to achieve
2105 elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified
2106 above in subsection (1)(a) of this section.

2107 (4) Except where otherwise authorized, all new construction and substantial improvements to
2108 existing structures shall require certification by a registered professional engineer, architect or
2109 surveyor that the design and construction standards are in accordance with adopted floodproofing
2110 techniques.

2111 (b) Utilities.

2112 (1) All new and replacement water supply systems and sanitary sewage systems shall be
2113 designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from
2114 the systems into floodwaters; and on-site waste disposal systems shall be located to avoid
2115 impairment to them or contamination from them during flooding.

2116 (c) Subdivision Proposals. Subdivision proposals shall:

2117 (1) Be consistent with the need to minimize flood damage;
2118 (2) Have roadways, public utilities and other facilities such as sewer, gas, electrical, and

water systems located and constructed to minimize flood damage;

- (3) Have adequate drainage provided to reduce exposure to flood damage; and
- (4) Include base flood elevation data.

(d) 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(a)(3).

(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(a)(3) above if within one hundred feet of a floodway or within one hundred feet of the ordinary high

2165 water mark and no floodway has been established;

2166 (F) Applicants floodproofing nonresidential buildings shall be notified that flood
2167 insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a
2168 building constructed to the base flood level will be rated as one foot below the level). Flood
2169 proofing the building an additional foot will reduce insurance premiums significantly. (Ref. IBC
2170 1612.5)

2171 (3) Agricultural Construction. New construction and substantial improvement of any
2172 agricultural structure shall either have the lowest floor, including basement, elevated at a
2173 minimum to or above the base flood elevation; or meet the floodproofing requirements of
2174 subsection (2) of this section. Agricultural construction or other accessory structures that
2175 constitute a minimal investment and comply with the floodway encroachment standards may be
2176 exempt from the floodproofing and elevation requirements of subsection (2) above when such
2177 structures, together with attendant utility sanitary facilities:

2178 (A) Have a low potential for structural flood damage;

2179 (B) Are designed and oriented to allow the free passage of floodwaters through the
2180 structure in a manner affording minimum flood damage; and

2181 (C) Ensure that all electrical and mechanical equipment subject to floodwater damage
2182 and permanently affixed to the structure be elevated a minimum of one foot above the base flood
2183 elevation or higher, or floodproofed;

2184 (D) Are constructed and placed on the building site so as to offer the minimum
2185 resistance to the flow of floodwaters; and

2186 (E) Will not be used for human habitation.

2187 All such structures shall be anchored to resist flotation, collapse, and lateral movement, and that
2188 only flood resistant materials be used for elements of these buildings below the base flood
2189 elevation.

2190 (4) Manufactured Homes.

2191 (A) Manufactured homes shall be anchored in accordance with Section
2192 16C.05.28.010(a)(2), shall have the lowest floor elevated to or above the base flood elevation,
2193 and shall be securely anchored to an adequately anchored foundation system to resist flotation,
2194 collapse and lateral movement in accordance with Section 16C.05.28.010(a)(2).

2196 **16C.05.32 FLOODWAY FRINGE USES**

2197 Sections:

2198 16C.05.32.010	Permitted Uses
2199 16C.05.32.020	Prohibited Uses

2201 **16C.05.32.010** **Permitted Uses** The following uses are permitted in the floodway fringe
2202 areas:

2203 (1) Any use permitted in the zoning district in accordance with YCC Title 15 or 15A of the
2204 Yakima County Code, unless prohibited by Section 16C.05.32.020.
2205 (2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent
2206 with YCC Title 15 and where not otherwise inconsistent with Chapters 16C.05.20 through
2207 16C.05.72; except that when the primary purpose of such a transmission line is to transfer bulk
2208 products or energy through a floodway fringe or special flood hazard area, such transmission line
2209 shall conform to the following:

2210 (A) Electric transmission lines shall cross floodway fringe and special flood hazard
2211 areas by the most direct route feasible. When support towers must be located within floodway
2212 fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or
2213 depth areas, and shall be adequately floodproofed.

2214 (B) Buried utility transmission lines transporting hazardous materials, including but not
2215 limited to crude and refined petroleum products and natural gas, shall be buried a minimum of
2216 four feet. Such burial depth shall be maintained within the floodway fringe or special flood
2217 hazard area to the maximum extent of potential channel migration as determined by hydrologic
2218 analyses. All such hydrologic analyses shall conform to requirements of Section
2219 16C.05.36.010(2)(c).

2220 (C) Beyond the maximum extent of potential channel migration, utility transmission
2221 lines transporting hazardous and nonhazardous materials shall be buried below existing natural
2222 and artificial drainage features. Burial depth in all other agricultural and nonagricultural
2223 floodway fringe or special flood hazard areas shall be determined on the basis of accepted
2224 engineering practice and in consideration of soil conditions and the need to avoid conflict with
2225 agricultural tillage.

2226 (D) Aboveground utility transmission lines, not including electric transmission lines,
2227 shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants
2228 must demonstrate that line placement will have no appreciable effect upon flood depth, velocity
2229 or passage. Such lines shall be adequately protected from flood damage.

2230 (E) Aboveground utility transmission line appurtenant structures, including valves,
2231 pumping stations or other control facilities, shall not be permitted in floodway fringe or special
2232 flood hazard areas except where no other alternative is available, or in the event a floodway
2233 fringe or special flood hazard location is environmentally preferable. In such instances,
2234 aboveground structures shall be located so that no appreciable effect upon flood depth, velocity
2235 or passage is created, and shall be adequately floodproofed.

2236 **16C.05.32.020** **Prohibited Uses** The following uses shall be prohibited in floodway
2237 fringe areas:

2238 (1) New manufactured home parks and the expansion of manufactured home/parks.

2239 **16C.05.36 FLOODWAY USES**

2240 **Sections:**

2241 16C.05.36.010 Permitted Uses
2242 16C.05.36.020 Prohibited Uses

2246 **16C.05.36.010 Permitted Uses** Permitted uses include any use permitted in the zoning
2247 district in accordance with YCC Title 15 of this code, provided that said use is in compliance
2248 with the flood hazard protection standards of Chapter 16C.05.28 and other applicable provisions
2249 of this title, and will have a negligible effect upon the floodway in accordance with the floodway
2250 encroachment provisions of Section 16C.05.36.020(2):

2251 (1) Surface mining, provided that the applicant can provide clear evidence that such uses will
2252 not divert flood flows causing channel-shift or erosion, accelerate or amplify the flooding of
2253 downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in
2254 any other way threaten public or private properties. When allowed, such removal shall comply
2255 with the provisions of Title 15 and the Yakima County Shoreline Management Master Program
2256 Regulations (WAC-173-19-470).

2257 (2) Utility transmission lines, unless otherwise prohibited by this division; except that when
2258 the primary purpose of such a transmission line is to transfer bulk products or energy through a
2259 floodway en route to another destination, as opposed to serving customers within a floodway,
2260 such transmission lines shall conform to the following:

2261 (A) All utility transmission lines shall cross floodways by the most direct route feasible
2262 as opposed to paralleling floodways,

2263 (B) Electric transmission lines shall span the floodway with support towers located in
2264 flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width,
2265 support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be
2266 adequately floodproofed,

2267 (C) Buried utility transmission lines transporting hazardous and nonhazardous materials,
2268 including but not limited to crude and refined petroleum products and natural gas, water and
2269 sewage, shall be buried a minimum of four feet below the maximum established scour of the
2270 waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be
2271 maintained horizontally within the hydraulic floodway to the maximum extent of potential
2272 channel migration as determined by hydrologic analyses. In the event potential channel
2273 migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and
2274 special flood hazard areas shall also govern placement. All hydrologic analyses are subject to
2275 acceptance by Yakima County, shall assume the conditions of a one-hundred-year frequency
2276 flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations
2277 and consideration of historical meander characteristics in addition to other pertinent facts and
2278 data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall
2279 be consistent with the Yakima County Shoreline Management Master Program Regulations,

2280 (D) Beyond the maximum extent of potential channel migration, utility transmission
2281 lines transporting hazardous and nonhazardous materials shall be buried below existing natural
2282 and artificial drainage features. Burial depth in all agricultural areas requiring or potentially
2283 requiring subsurface drainage shall be a minimum of six feet as measured from ground surface to
2284 the top of the transmission line, or at other such depth as deemed necessary by on-site
2285 investigations performed by a qualified soils expert familiar with Yakima County soils. Burial
2286 depth in all other agricultural and nonagricultural floodway areas shall be determined on the
2287 basis of accepted engineering practice and in consideration of soil conditions and the need to
2288 avoid conflict with agricultural tillage,

2289 (E) Aboveground utility transmission lines, not including electric transmission lines,
2290 shall only be allowed for the transportation of nonhazardous materials where an existing or new
2291 bridge or other structure is available and capable of supporting the line. When located on existing

2292 or new bridges or other structures with elevations below the level of the one-hundred-year flood,
2293 the transmission line shall be placed on the downstream side and protected from flood debris. In
2294 such instances, site-specific conditions and flood damage potential shall dictate placement,
2295 design and protection throughout the floodway. Applicants must demonstrate that such
2296 aboveground lines will have no appreciable effect upon flood depth, velocity or passage, and
2297 shall be adequately protected from flood damage. If the transmission line is to be buried except
2298 at the waterway crossing, burial specifications shall be determined as in subsection (2)(C) of this
2299 section;

2300 (F) Aboveground utility transmission line appurtenant structures, including valves,
2301 pumping stations, or other control facilities, shall not be permitted in the floodway,

2302 (G) Where a floodway has not been determined by preliminary Corps of Engineers'
2303 investigations or official designation, a floodway shall be defined by qualified engineering work
2304 by the applicant on the basis of a verified one-hundred-year flood event;

2305 (3) Construction or reconstruction of residential structures only as authorized in Section
2306 16C.05.36.020(3);

2307 (4) Improvements to existing residential structures that are not substantial improvements per
2308 Section 16C.05.24.260; provided, the improvement complies with the requirement set forth in
2309 Section 16C.05.36.020(2).

2310 (5) Water-dependent utilities and other installations which by their very nature must be in the
2311 floodway. Examples of such uses are: dams for domestic/industrial water supply, flood control
2312 and/or hydroelectric production; water diversion structures and facilities for water supply,
2313 irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities;
2314 hydroelectric generating facilities and appurtenant structures; structures and nonstructural uses
2315 and practices; provided, that the applicant shall provide evidence that a floodway location is
2316 necessary in view of the objectives of the proposal, and provided further that the proposal is
2317 consistent with other provisions of this title and the Shoreline Management Master Program
2318 (YCC Title 16D). In all instances of locating utilities and other installations in floodway
2319 locations, project design must incorporate floodproofing and otherwise comply with subsection
2320 (2) above;

2321 (6) Dikes, provided that the applicant can provide evidence that:

2322 (A) Adverse effects upon adjacent properties will not result relative to increased
2323 floodwater depths and velocities during the base flood or other more frequent flood occurrences,

2324 (B) Natural drainage ways are minimally affected in that their ability to adequately drain
2325 floodwaters after a flooding event is not impaired,

2326 (C) The proposal has been coordinated through the appropriate diking district where
2327 applicable, and that potential adverse effects upon other affected diking districts have been
2328 documented;

2329 (7) Roads and bridges, subject to the regulations of Section (2) above.

2330 **16C.05.36.020 Prohibited Uses** The following uses/developments are prohibited in the
2331 floodway:

2333 (1) Any structure, including manufactured homes, designed for, or to be used for human
2334 habitation of a permanent nature (including temporary dwellings authorized by Section
2335 15.72.060);

2336 (2) All encroachments, including fill, new construction and other development unless
2337 certification by a registered professional engineer is provided demonstrating through hydrologic

2338 and hydraulic analysis performed in accordance with standard engineering practice that the effect
2339 of the subject encroachment together with the cumulative effects of all similar potential
2340 encroachments shall not materially cause water to be diverted from the established floodway, or
2341 cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or
2342 result in any increase in flood levels during the occurrence of the base flood discharge;

2343 (3) Construction or reconstruction of residential structures within designated floodways,
2344 except for (i) repairs, reconstruction, or improvements to a structure which do not increase the
2345 ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of
2346 which does not exceed fifty percent of the assessed value of the structure either (A) before the
2347 repair, reconstruction or improvement is started, or (B) if the structure has been damaged and is
2348 being restored, before the damage occurred. Work done on structures to correct existing
2349 violations of existing health, sanitary or safety codes, or to structures identified as historic places
2350 shall not be included in the fifty percent. If subsection (2) of this section is satisfied, all new
2351 construction and substantial improvements shall comply with all applicable flood hazard
2352 reduction provisions of Chapters 16C.05.20 through 16C.05.72, including those set forth in
2353 subsection (5) below;

2354 (4) The construction or storage of any object subject to flotation or movement during flood
2355 level periods;

2356 (5) The following uses, due to their high degree of incompatibility with the purpose of
2357 establishing and maintaining a functional floodway, are specifically prohibited:

2358 (A) The filling of wetlands, except as authorized under Chapter 16C.06 (Fish and
2359 Wildlife Habitat and the Stream Corridor) and Chapter 16C.07 (Wetlands) of this title,

2360 (B) Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or
2361 materials,

2362 (C) Damming or relocation of any watercourse that will result in any downstream
2363 increase in flood levels during the occurrence of the base flood discharge;

2364 (6) The listing of prohibited uses in this section shall not be construed to alter the general
2365 rule of statutory construction that any use not permitted is prohibited.

2367 **16C.05.40 NON-CONFORMING USES AND STRUCTURES**

Sections:

2369 16C.05.40.010	Generally
2370 16C.05.40.020	Non-conforming Uses of Land
2371 16C.05.40.030	Non-conforming Structures
2372 16C.05.40.040	Improvements
2373 16C.05.40.050	Restoration
2374 16C.05.060	Discontinuance

2376 16C.05.40.010 Generally

2377 (a) Within the special flood hazard areas established by Chapters 16C.05.20 through 16C.05.72
2378 or amendments thereto, there may exist structures and uses of land and structures which were
2379 lawful before these chapters were adopted or amended, but which would be prohibited, regulated
2380 or restricted under the terms of Chapters 16C.05.20 through 16C.05.72 or future amendment.

2381 (b) It is the intent of Chapters 16C.05.20 through 16C.05.72 to permit these lawful pre-existing
2382 nonconformities to continue until they are removed by economic forces or otherwise, but not to

2383 encourage their survival except in cases where continuance thereof would not be contrary to the
2384 public health, safety or welfare, or the spirit of said chapters.

2385 (c) To avoid undue hardship, nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed
2386 to require a change in the plans, construction, or designated use of any building on which actual
2387 construction was lawfully begun prior to June 5, 1985, the date Yakima County enacted
2388 Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program,
2389 and upon which actual building construction has been diligently carried on; namely, actual
2390 construction materials placed in permanent position and fastened in a permanent manner. Where
2391 demolition or removal of an existing building has been substantially begun preparatory to
2392 rebuilding, such demolition or removal shall be deemed to be actual construction, provided that
2393 work shall be diligently carried on until completion of the building involved. October 1, 1995,
2394 the effective date of the ordinance codified in this title shall be used as it applies to all other
2395 Critical Areas requirements established under this title by Ordinance 8-1995.

2396
2397 **16C.05.40.020 Non-conforming Uses of Land** If, on October 1, 1995, the effective date
2398 of Chapters 16C.05.20 through 16C.05.72, a lawful use of land not conducted within a building
2399 exists that is made no longer permissible under the terms of said chapters as adopted or amended,
2400 such use may be continued as long as it remains otherwise lawful, subject to the following
2401 provisions:

2402 (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a
2403 greater area of the lot of record than that which it occupied at the effective date of adoption or
2404 amendment of Chapters 16C.05.20 through 16C.05.72.

2405 (2) At such time as a structure is erected thereon, the structure and the use of the land shall
2406 conform to the regulations specified by Chapters 16C.05.20 through 16C.05.72 and YCC Title
2407 15 or 15A.

2408
2409 **16C.05.40.030 Non-conforming Structures**

2410 (a) If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a
2411 structure is nonconforming only because the structure is not in conformance with the applicable
2412 elevation and/or floodproofing requirement of said chapters and Chapter 15.68 of YCC Title 15,
2413 or Chapter 15A.19 of YCC Title 15A provided that the degree of nonconformity shall not be
2414 increased and the applicable elevation and/or floodproofing requirements of this title shall be
2415 observed, any structural alterations or enlargements of an existing structure under such
2416 conditions shall not increase the degree of nonconformity.

2417 (b) A structure, nonconforming only because the structure is not in conformance with the
2418 applicable elevation and/or floodproofing requirements of Chapters 16C.05.20 through
2419 16C.05.72, destroyed to an extent such that restoration costs would exceed fifty percent of the
2420 assessed value of the structure immediately prior to such occurrence, shall be considered
2421 completely destroyed and shall be required to meet all applicable requirements of this titles and
2422 YCC Title 15 or 15A upon restoration.

2423
2424 **16C.05.40.040 Improvements** Nothing in Chapters 16C.05.20 through 16C.05.72 shall
2425 be construed to restrict normal structural repair and maintenance activities, including
2426 replacement of walls, fixtures and plumbing, provided that the value of work and materials in
2427 any twelve-month period does not exceed twenty-five percent of the assessed value of the
2428 structure prior to such work.

2429

2430 **16C.05.40.050 Restoration**

2431 Nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to prohibit the restoration of
2432 the structural portions of a nonconforming use within six months from the date of its accidental
2433 damage by fire, explosion, or act of God; provided that the applicable elevation and/or
2434 floodproofing requirements of said chapters shall be adhered to if the structure is destroyed. A
2435 structure shall be considered to be destroyed if the restoration costs exceed fifty percent of the
2436 assessed value.

2437

2438 **16C.05.060 Discontinuance**

2439 If the nonconforming use is discontinued for a period of twelve consecutive months or more, the
2440 nonconforming status of the use is terminated and any future use of the land or structures shall be
2441 in conformity with the provisions of this title. The mere presence of a structure, equipment, or
2442 material shall not be deemed to constitute the continuance of a nonconforming use unless the
2443 structure, equipment or material is actually being occupied or employed in maintaining such use.
2444 The ownership of property classed as nonconforming may be transferred without that fact alone
2445 affecting the right to continue such nonconforming use.

2446

2447 **16C.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION**

2448 Sections:

2449 16C.05.44.010 Administration

2450 16C.05.44.020 Authority

2451 16C.05.44.030 Permit – Required

2452 16C.05.44.040 Permit – Application

2453 16C.05.44.050 Permit – Review

2454 16C.05.44.060 Use of Available Data

2455 16C.05.44.070 Limitations

2456 16C.05.44.080 Permit – Expiration & Cancellation

2457

2458 **16C.05.44.010 Administration**

2459 The Chief Building Official is vested with the duty of administering the rules and regulations
2460 relating to flood hazard protection in accordance with the provisions of Chapters 16C.05.20
2461 through 16C.05.72 and may prepare and require the use of such forms as are essential to such
2462 administration.

2463

2464 **16C.05.44.020 Authority**

2465 Upon application, the Chief Building Official shall have the authority to grant a flood hazard
2466 permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20
2467 through 16C.05.72 and in other applicable local, state and federal regulations has been
2468 demonstrated and the proposal is found to be consistent with the purpose of the policies of the
2469 Critical Areas Ordinance.

2470

2471 **16C.05.44.030 Permit – Required**

2472 Prior to any development within a special flood hazard area a flood hazard permit shall be
2473 obtained. This permit may be in addition to the critical area development authorization as set
2474 forth in Chapter 16C.03 of this title.

2475

2476 **16C.05.44.040 Permit – Application**

2477 All persons applying for a flood hazard permit shall submit a written application, accompanied
2478 by an application fee as specified in YCC Title 20, using the forms supplied. The application
2479 shall not be considered complete until the following minimum information is provided:

2480 (1) Name, address and telephone number of applicant;
2481 (2) Name, address and telephone number of property owner;
2482 (3) Project description and taxation parcel number;
2483 (4) Name of the stream or body of water associated with the floodplain in which the
2484 development is proposed;
2485 (5) Site plan map showing:
2486 (A) Actual dimensions and shape of the parcel to be built on,
2487 (B) Sizes and location of existing structures on the parcel to the nearest foot,
2488 (C) Location and dimensions of the proposed development, structure or alteration,
2489 (D) Location, volume and type of any proposed fill,
2490 (E) The application shall include such other information as may be required by the
2491 administrative official, to clarify the application, including existing or proposed building or
2492 alteration, existing or proposed uses of the building and land, and number of families,
2493 housekeeping units or rental units the building is designed to accommodate, conditions existing
2494 on the lot, and such other matters as may be necessary to determine conformance with, and
2495 provide for the enforcement of Chapters 16C.05.20 through 16C.05.72;
2496 (6) Information required by other sections of Chapters 16C.05.20 through 16C.05.72.

2497

2498 **16C.05.44.050 Permit – Review** Flood hazard permit applications will be reviewed to
2499 determine:

2500 (1) That the floodproofing requirements and other provisions of Chapters 16C.05.20 through
2501 16C.05.72 have been satisfied;
2502 (2) If the proposed development is located in the floodway, the floodway encroachment
2503 provisions of Section 16C.05.36.020(2) are met;
2504 (3) If the proposed development includes the alteration or relocation of a watercourse, the
2505 provisions of Section 16C.05.28.010(d) are met;
2506 (4) That the proposed development is a use permitted under Chapters 16C.05.20 through
2507 16C.05.72 and YCC Title 15 or 15A;
2508 (5) That all necessary permits have been obtained from those federal, state or local
2509 governmental agencies from which prior approval is required.

2510

2511 **16C.05.44.060 Use of Available Data**

2512 When base flood elevation data has not been provided in accordance with Section
2513 16C.05.20.010, Flood hazard areas established, the county shall obtain, review, and reasonably
2514 utilize any base flood elevation and floodway data available from a federal, state or other source,
2515 in order to administer Section 16C.05.28.020, Specific standards, and 16C.05.36.020, Floodway
2516 Prohibited Uses, and Chapter 16C.04 (Enforcement and Penalties).

2517

2518 **16C.05.44.070 Limitations**

2519 Permits issued on the basis of plans and applications approved by the administrative official
2520 authorize only the use, arrangement and construction set forth in such approved plans and
2521 applications, and no other use, arrangement or construction. Use, arrangement or construction at
2522 variance with that authorized is a violation of Chapters 16C.05.20 through 16C.05.72 and
2523 punishable as provided by 16C.04 (Enforcement and Penalties).

2524

16C.05.44.080 Permit – Expiration & Cancellation

2525 If the work described in any permit has not begun within one hundred eighty days from the date
2526 of issuance thereof, the permit shall expire and be canceled by the chief building official.

2527

16C.05.44.090 Performance bonds

2528 (a) The county may require bonds in such form and amounts as may be deemed necessary to
2529 assure that the work shall be completed in accordance with approvals under Chapters 16C.05.20
2530 through 16C.05.72. Bonds, if required, shall be furnished by the property owner, or other person
2531 or agent in control of the property.

2532 (b) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the
2533 department in an amount equal to that which would be required in the surety bond.

2534

16C.05.44.100 Appeals

2535 The decision to grant, grant with conditions or deny a flood hazard permit shall be final and
2536 conclusive unless the applicant appeals the decision pursuant to the procedure established for
2537 appeals in Chapter 16C.03.

2538

16C.05.44.110 Coordination

2539 Upon application, the Chief Building Official shall have the authority to grant a flood hazard
2540 permit when compliance with the applicable conditions as set forth in Chapter 16C.05.20
2541 through 16C.05.72 and in other applicable local, state and federal regulations has been
2542 demonstrated and the proposal is found to be consistent with the purpose of this title.

2543

16C.05.48 ELEVATION AND FLOODPROOFING CERTIFICATION

2544

Sections:

2545 16C.05.48.010 Applicability
2546 16C.05.48.020 Certification Form
2547 16C.05.48.030 Information to be obtained and maintained
2548 16C.05.48.040 Certification Responsibility

2549

16C.05.48.010 Applicability

2550 Certification shall be provided to verify that the minimum floodproofing and elevation standards
2551 of Chapter 16C.05.28 have been satisfied. Certification shall be required only for the new
2552 construction or substantial improvement of any residential, commercial, industrial or
2553 nonresidential structure located in a special flood hazard area, except that agricultural and certain
2554 accessory structures constructed in accordance with the standards of Section 16C.05.28.020(3)
2555 shall not require certification. Such structures are still subject to elevation or floodproofing
2556 certification for flood insurance purposes.

2557

16C.05.48.020 Certification Form

2565 The form of the elevation and floodproofing certificate shall be specified by the Chief Building
2566 Official and shall be generally consistent with that required by FEMA for the administration of
2567 the National Flood Insurance Program.).

2568

16C.05.48.030 Information to be obtained and maintained

2569 The elevation and floodproofing certificate shall verify the following flood hazard protection
2570 information:

2571 (1) The actual elevation (in relation to mean sea level) of the lowest floor (including
2572 basement) of all new or substantially improved structures, and whether or not the structure
2573 contains a basement;

2574 (2) The actual elevation (in relation to mean sea level) of floodproofing of all new or
2575 substantially improved floodproofed structures, and that the floodproofing measures utilized
2576 below the base flood elevation render the structure watertight, with walls substantially
2577 impermeable to the passage of water;

2578 (3) Where a base flood elevation has not been established according to Section
2579 16C.05.20.010, obtain and record the actual elevation (in relation to mean sea level) of the
2580 lowest floor (including basement) as related to the highest adjacent grade, and whether or nor the
2581 structure contains a basement.

2582

16C.05.48.040 Certification Responsibility

2583 The project proponent shall be responsible for providing required certification data to the Chief
2584 Building Official prior to the applicable construction inspection specified in the certification
2585 form. All elevation and floodproofing data specified in Section 16C.05.48.030 must be obtained
2586 and certified by a registered professional engineer, architect, or surveyor. The elevation and
2587 floodproofing certification shall be permanently maintained by the chief building official.

2588

16C.05.52 VARIANCES

2589 **Sections:**

2590

2591 16C.05.52.010	Procedure
2592 16C.05.52.020	Variance limitations
2593 16C.05.52.030	Conditions for Authorization
2594 16C.05.52.040	Administrative Official's Decision
2595 16C.05.52.050	Notification and Final Decision
2596 16C.05.52.060	Power to Refer Decisions
2597 16C.05.52.070	Appeals

2598

16C.05.52.010 Procedure

2599 Any person seeking a variance from the requirements of Chapters 16C.05.20 through 16C.05.72
2600 authorized under Section 16C.05.52.020 shall make such request in writing to the department on
2601 forms supplied by the department. Upon receipt of a completed application and application fee
2602 for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent
2603 property within twenty days of the receipt of completed application and fee. The notice shall
2604 solicit written comment on the variance request and specify a time period not less than ten days
2605 from the date of mailing, during which written comments may be received and considered. The
2606 notice shall also state that copies of the administrative official's final decision will be mailed
2607

2610 upon request. The administrative official may also solicit comments from any other person or
2611 public agency he or she feels may be affected by the proposal.

2612

2613 **16C.05.52.020 Variance limitations**

2614 (a) Variances shall be limited solely to the consideration of:
2615 (1) Elevation requirements for lowest floor construction;
2616 (2) Elevation requirements for floodproofing;
2617 (3) The type and extent of floodproofing.
2618 (b) Variances shall not be considered for any procedural or informational requirements or use
2619 prohibitions of Chapters 16C.05.20 through 16C.05.72.

2620

2621 **16C.05.52.030 Conditions for Authorization**

2622 Before a variance to the provisions of Chapters 16C.05.20 through 16C.05.72 may be authorized,
2623 it shall be shown that:

2624 (1) There are special circumstances applicable to the subject property or to the intended use,
2625 such as size, topography, location or surroundings, that do not apply generally to other property
2626 in the same vicinity and zone; and

2627 (2) The granting of such variance will not be materially detrimental to the public welfare or
2628 injurious to the property or improvements in the vicinity and zone in which the subject property
2629 is located; and

2630 (3) Such a variance is the minimum necessary, considering the flood hazard, to afford relief;
2631 and

2632 (4) Failure to grant the variance would result in exceptional hardship to the applicant; and

2633 (5) The granting of such a variance will not result in:
2634 (A) Increased flood heights,
2635 (B) Additional threats to public safety,
2636 (C) Creation of nuisances,
2637 (D) Extraordinary public expense,
2638 (E) Conflicts with other existing local laws or ordinances.

2639

2640 **16C.05.52.040 Administrative Official's Decision**

2641 After considering any comments received from other agencies, jurisdictions or adjoining
2642 property owners, the administrative official shall approve, approve with conditions, or deny the
2643 variance request. The administrative official shall prepare written findings and conclusions
2644 stating the specific reasons upon which the decision is based.

2645

2646 **16C.05.52.050 Notification and Final Decision**

2647 The decision shall be issued within seven days from the end of the comment period. Further, the
2648 administrative official shall mail the findings and decision to the applicant and to other parties of
2649 record requesting a copy.

2650

2651 **16C.05.52.060 Power to Refer Decisions**

2652 In exercising the duties and powers of implementing and administrating Chapters 16C.05.20
2653 through 16C.05.72, the administrative official may refer any variance application to the hearing
2654 examiner for action at a public hearing.

2656 **16C.05.52.070 Appeals**

2657 Any decision by the administrative official to approve or deny a variance request may be
2658 appealed subject to the procedures set forth in Section 16C.03.13 (Development Authorization –
2659 Review Procedure).

2660

2661 **16C.05.72 Map Correction Procedures**

2662 **Sections:**

2663 **16C.05.72 Map Correction Procedures**

2664 16C.05.72.010 Federal flood hazard map correction procedures. The procedures for federal
2665 flood hazard map correction, as provided in federal regulations Section 70 CFR of the National
2666 Insurance Program are hereby adopted by reference.

Chapter 16C.06

FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM

Sections:

Introduction

2671 16C.06.01 Purpose and Intent
2672 16C.06.02 Protection Approach

Designation and Mapping

- 2675 16C.06.03 Hydrologically Related Critical Area Features
- 2676 16C.06.04 Upland Wildlife Habitat and Habitats of Local Importance
- 2677 16C.06.05 Functional Properties
- 2678 16C.06.06 Stream, Lake and Pond Typing System
- 2679 16C.06.07 Wetland Rating System
- 2680 16C.06.08 Maps
- 2681 16C.06.09 Upland Wildlife Habitat and Habitats of Local Importance Development Standards

General Development Standards

2684 16C.06.10 Prohibited Uses
2685 16C.06.11 General Policies and Standards

Water Dependency Development Standards and Buffer Requirements

2688	16C.06.12	Use Classifications
2689	16C.06.13	Water-dependent Uses
2690	16C.06.14	Water-related Uses
2691	16C.06.15	Non-water Oriented Uses
2692	16C.06.16	Vegetative Buffers

Land Modification Development Standards

2695	16C.06.17	Roads, Railroads and Parking
2696	16C.06.18	Utility Transmission Lines
2697	16C.06.19	Shore Stabilization
2698	16C.06.20	Dredging and Excavation
2699	16C.06.21	Filling
2700	16C.06.22	Commercial Mining of Gravels
2701	16C.06.23	Reclamation

2702

2703 **16C.06.01 Purpose and Intent**

2704 1) The stream corridor system includes hydrologically related critical areas, streams, lakes,
2705 ponds, and wetlands, and are part of a fragile and highly complex relationship of geology,
2706 soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines,
2707 policies, and standards to help conserve, protect, and, where feasible, restore and enhance
2708 this complex relationship. These regulations have been designed to:
2709 a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the
2710 functions and values of fish and wildlife habitat, wetlands, stream undercutting geologic
2711 hazards and frequently flooded areas; and to give special consideration to anadromous
2712 fish;
2713 b) Meet eligibility requirements of the National Flood Insurance Program (NFIP).
2714 2) The guidelines, policies, and standards of this chapter are intended to:
2715 a) Provide alternatives for necessary development, construction, and uses within a
2716 designated stream corridor and other hydrologically related critical areas;
2717 b) Prevent further degradation in the quantity and quality of surface and subsurface waters;
2718 c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation,
2719 and ecological relationships;
2720 d) Protect public and private properties from adverse effects of improper development
2721 within hazardous or sensitive areas of the stream corridor;
2722 e) Provide a zero net loss of natural wetlands functions and values together with, a gain of
2723 wetlands in the long term, if reasonably possible through voluntary agreements or
2724 government incentives;
2725 f) Establish measures to protect streams, lakes, ponds, and wetlands;
2726 g) Recognize that, based on WAC 365-190-080(5) (Fish and Wildlife Habitat Conservation
2727 Areas) wildlife habitat conservation means land management for maintaining species in
2728 suitable habitats within their natural geographic distribution so that isolated
2729 subpopulations are not created. This does not mean maintaining all individuals of all
2730 species at all times, but it does mean cooperative and coordinated land use planning is
2731 critically important;
2732 h) Emphasize that these provisions do not attempt to protect individuals of species. Rather,
2733 these provisions are intended to provide protection for wildlife habitats.

2734

2735 **16C.06.02 Protection Approach**

2736 1) To maintain viable populations of fish and wildlife species, there must be adequate
2737 environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals
2738 at a variety of scales across the landscape. Key factors affecting habitat quality include
2739 fragmentation, the presence of essential resources such as food, water, nest building
2740 materials, the complexity of the environment, and the presence or absence of predator species
2741 and diseases. As a method of linking large habitat areas, migration corridors offer a means
2742 by which to connect publicly protected lands and other intact habitat areas. Riparian
2743 corridors offer a natural system of such linkages. Yakima County accomplishes fish and
2744 wildlife habitat protection in 3 parts:
2745 a) Protect habitat for aquatic (in-water) species through stream, lake, pond and wetland
2746 standards;

2747 b) Protect habitat for riparian (near-water) species through stream, lake, pond, and wetland
2748 standards and buffer requirements;
2749 c) Protect habitat for upland species using the upland wildlife habitat protection measures
2750 described below.

2751 2) Yakima County has a very high proportion of federal, state and other publicly and tribally
2752 owned land, including State Natural Area Preserves and Natural Resource Conservation
2753 Areas. These lands are managed to some extent for the conservation of wildlife habitat.
2754 Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is
2755 to rely on the management of these lands by the responsible entity.

2756 3) To accomplish upland wildlife protection on private lands, Yakima County performed an
2757 assessment to map wildlife habitat. Only a small percentage of the mapped area is within
2758 private ownership and that is largely in remote areas of forest and rangeland. Consequently,
2759 part of Yakima County's approach to protect upland wildlife on private land is to rely on the
2760 large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum)
2761 and Agriculture (40 acre minimum) zoning districts.

2762 4) Corridors for wildlife to move between large habitat areas are a component of wildlife
2763 habitat. Riparian corridors offer a natural system of linkages between such areas. In semi-
2764 arid regions such as Yakima County, riparian corridors not only offer migratory linkages
2765 between large habitat areas but also offer important refuge and habitat for numerous species
2766 that rely on the riparian areas for their existence. Consequently, Yakima County's approach
2767 to protect wildlife migration corridors and riparian habitat is to rely on the protection
2768 measures for stream corridors, wetlands, and Shoreline jurisdiction, where applicable.

2769 5) Yakima County's approach to protecting aquatic habitat is to rely on the protection standards
2770 for stream corridors, wetlands, and Shoreline jurisdiction (where applicable).

2771 6) The state gives some discretion to local governments in designating fish and wildlife habitat.
2772 WAC 365-190-080(5)(a) (fish and wildlife habitat designation) identifies six non-marine
2773 habitat types from which to choose in designating fish and wildlife habitat, but does not
2774 require the use of all listed habitat types. Five habitat types are protected using the
2775 approaches described above. The remaining habitat type - Threatened, Endangered, and
2776 Sensitive Species Habitat is difficult to use due to the difficulties in obtaining accurate maps
2777 of habitat for the different species. In addition, such species are protected by federal and
2778 state laws which are administered by other agencies. Yakima County's approach to
2779 protecting Threatened, Endangered, and Sensitive Species Habitat is to do so indirectly,
2780 using each of the above listed protection approach items. Direct protection measures are
2781 deferred to the relevant state or federal agency with jurisdiction over the different species.
2782 Yakima County will consider comments and advice related to a species from such agencies
2783 in the course of normal development review processes.

Designation and Mapping

16C.06.03 Hydrologically Related Critical Area Features

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

2790 1) Any floodway and floodplain identified as a special flood hazard area. Special flood hazard
2791 areas are those identified by the Federal Insurance Administration in the Flood Insurance
2792 Study for Yakima County which, together with accompanying Flood Insurance Maps, is

2793 hereby adopted by reference and declared to be a part of this title as set forth in Chapters
2794 16C.05.20 through 16C.05.72;

2795 2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main
2796 channel and all secondary channels within the Ordinary High Water Mark;

2797 3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-
2798 made lakes and ponds created within a stream channel designated under (2) above;

2799 4) All wetlands, that meet the definition found in Section 16C.02.425, as required by WAC 365-
2800 190-080(1), and as designated in section 16C.07.02(1) of the wetland chapter;

2801 5) Where specifically cited, any flood-prone area not included in a designated floodway and
2802 floodplain but indicated as flood-prone by U.S. Soil Conservation Service soil survey data or
2803 geologic evidence developed through professional geologists or engineers;

2804 6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream
2805 channel, lake, or pond, designated in this section or from the edge of a wetland designated in
2806 this section according to the distances set forth in Section 16C.06.16 (Vegetative Buffers);

2807

2808 **16C.06.04 Upland Wildlife Habitat and Habitats of Local Importance**

2809 1) State Natural Area Preserves and Natural Resource Conservation Areas shall be designated
2810 Upland Wildlife Habitat.

2811 2) Species and Habitats of Local Importance. These are habitats or species that due to their
2812 declining population, sensitivity to habitat manipulation or other values make them important
2813 on a local level. Habitats of Local Importance may include a seasonal range or habitat
2814 element with which a given species has a primary association, and which, if altered, may
2815 reduce the likelihood that the species will maintain and reproduce over the long term.

2816 a) Species and Habitats of Local Importance may be identified for protection under this title.
2817 State or local agencies, individuals or organizations may identify and nominate for
2818 consideration specific species and habitats, or a general habitat type, including streams,
2819 ponds or other features. Proponents shall have the burden of presenting evidence
2820 concerning the criteria set forth below. The nomination shall be processed once a year
2821 through the annual *Comprehensive Plan 2015* amendment cycle.

2822 b) The decision for changes to species and habitats of local importance should consider:

2823 i) Concern due to population status;

2824 ii) Sensitivity to habitat manipulation;

2825 iii) Importance to the local community, and/or;

2826 iv) The economic impact both positive and negative to the applicants property or
2827 surrounding property. Economic impacts are to be determined by a properly qualified
2828 individual or firm using industry standards.

2829 c) Nominated habitats, and habitats for species of local importance shall consider the
2830 following, and must include maps to illustrate the proposal:

2831 i) A seasonal range or habitat element which, if altered, may reduce the likelihood that
2832 the species will maintain or reproduce over the long term;

2833 ii) Areas of high relative density or species richness, breeding habitat, winter range, and
2834 movement corridors;

2835 iii) Habitat with limited availability or high vulnerability to alteration;

2836 iv) Whether these habitats are already identified and protected under the provisions of
2837 this or other county ordinances or state or federal law.

2838 d) Habitat management recommendations shall be included for use in the administration of
2839 this chapter.

2840

2841 **16C.06.05 Functional Properties**

2842 1) Streams, lakes and ponds and wetlands require a sufficient riparian area to support one or
2843 more of the following functional properties:
2844 a) Streambank and shore stabilization;
2845 b) Providing sufficient shade through canopy cover to maintain water temperatures at
2846 optimum levels and to support fish habitat;
2847 c) Moderating the impact of stormwater and meltwater runoff;
2848 d) Filtering solids, nutrients, and harmful substances;
2849 e) Surface erosion prevention;
2850 f) Providing and maintaining migratory corridors for wildlife;
2851 g) Supporting a diversity of wildlife habitat;
2852 h) Providing floodplain functions noted below;
2853 i) Contributing woody debris and organic matter to the aquatic environment;
2854 j) Providing altered climatic conditions different from upland areas.

2855 2) Stream channels generally support one or more of the following functional properties:
2856 a) Groundwater recharge and/or discharge;
2857 b) Water transport;
2858 c) Sediment transport and/or storage;
2859 d) Biogeochemical functions (see lakes, ponds and wetland functions below);
2860 e) Channel migration and creation of a dynamic habitat mosaic;
2861 f) Food web and habitat functions

2862 3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or
2863 lesser degree. Wetlands are often located along the margins of lakes and ponds, which often
2864 mixes the functions between the two. Lakes, ponds and wetlands generally provide one or
2865 more of the following functional properties:
2866 a) Biogeochemical functions, which are related to trapping and transforming chemicals and
2867 include functions that improve water quality in the watershed such as: nutrient retention
2868 and transformation, sediment retention, metals and toxics retention and transformation;
2869 b) Hydrologic functions, which are related to maintaining the water regime in a watershed,
2870 such as: flood flow attenuation, decreasing erosion, groundwater recharge;
2871 c) Food web and fish and wildlife habitat functions, which includes habitat for:
2872 invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.

2873 4) Floodplains generally provide one or more of the following functional properties:
2874 a) Floodwater storage and passage, including the movement of high velocity flood waters;
2875 b) Sediment storage and recruitment;
2876 c) Food web and habitat functions;
2877 d) Nutrient sink and/or source;
2878 e) Groundwater recharge and/or discharge.

2879 5) Wildlife habitat consists of the arrangement of food, water, cover, and space required to meet
2880 the biological needs of an animal. Different wildlife species have different requirements, and
2881 these requirements vary over the course of a year. Wildlife habitat generally includes one or
2882 more of the following functional properties:
2883 a) Reproduction and/or nesting;

- b) Resting and refuge;
- c) Foraging for food;
- d) Dispersal and migration.

6) 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**, lakes and ponds are those surface water features which require protection due to the nature of their contributions to the functional properties listed in Section 16C.06.05 , and are considered "Streams, Lakes and/or Ponds of Local Importance", as listed in Appendix A of this title. Habitats of local importance are designated using the process listed in section 16C.06.04 (Upland Wildlife Habitat and Habitats of Local Importance);
- 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;
- 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. Lakes or ponds not designated as a shoreline that are connected to a Type 1 stream shall be Type 3 ponds;
- 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

2930 in Section 16C.06.05 (Functional Properties) and section 16C.07.04 (Wetland Functions and
2931 Rating). For regulatory purposes, wetlands are classified into four categories according to the
2932 Wetland Rating System found in section 16C.07.04(2) (Wetland Functions and Rating) of the
2933 wetland chapter.

2934

2935 **16C06.08 Maps**

2936 Certain fish and wildlife habitat and hydrologically related critical areas have been inventoried
2937 and are depicted on a series of paper and electronic maps maintained at the Yakima County
2938 Public Services Department. The best available graphic depiction of critical areas within the
2939 county will be used and continuously updated as reliable data becomes available. Maps may be
2940 both regulatory and non-regulatory in nature as described below:

- 2941 1) Regulatory maps are created with a defined process not necessarily corresponding directly
2942 with easily observable physical features such as streams and wetlands. These maps define
2943 the regulated critical areas. They are also formally adopted by the Board of Yakima County
2944 Commissioners and may only be changed by that body. Regulatory maps include the
2945 following:
 - 2946 a) Any floodway or floodplain identified as a special flood hazard area by the Federal
2947 Insurance Administration in the Flood Insurance Study for Yakima County.
- 2948 2) Administrative maps are intended to indicate the approximate presence, location and/or
2949 typing of the subject critical area features, and act as a trigger for further investigation of the
2950 extent and characteristics of critical areas in a specific project location. These maps were
2951 created using reconnaissance level or better data. Given site-specific variations in
2952 reconnaissance level data, more detailed information developed at the site-specific level may
2953 be used to modify the maps as it is developed; the maps maintained by the Yakima County
2954 Public Services Department do not officially define the extent or characteristics of specific
2955 critical areas; rather the physical characteristics that exist "on the ground" define the
2956 boundaries of the regulated critical areas. Administrative maps include, but are not limited to
2957 the following:
 - 2958 a) Wetlands;
 - 2959 b) Streams;
 - 2960 c) Channel migration zone;
 - 2961 d) Species and Habitats of Local Importance - Mapped habitat areas for newly listed species
2962 will be generated as needed to supplement the existing maps. Habitats of local
2963 importance currently include:
 - 2964 i) Type 2 Streams, lakes and/or ponds listed in Appendix A and described in section
2965 16C.06.06(2) above.
 - 2966 e) Upland Wildlife Habitat Analysis Map.
- 2967 3) Other information sources – these are maps or other data sources, including special studies
2968 and management plans, which are neither produced or maintained by the Yakima County
2969 Public Services Department, which are used to indicate the presence of Critical Areas,
2970 importance or ranking of critical areas functions, or hazard or risk associated with Critical
2971 Areas. These information sources include, but are not limited to:
 - 2972 a) Comprehensive Flood Hazard Management Plans and associated studies;
 - 2973 b) Soil Survey of Yakima County;
 - 2974 c) Natural resource management plans, such as local and federal Recovery Plans, or Forest
2975 Plans prepared by the US Forest Service;

2976 d) Surficial Geologic Maps;
2977 e) Historic and Current Aerial Photo Series;
2978 f) Geohydraulic studies – geologic cross sections showing aquifers and confining units.

2979

2980 **16C.06.09 Upland Wildlife and Habitats of Local Importance Development Standards**

2981 Projects located within an Upland Wildlife Habitat Critical Area or Habitats of Local
2982 Importance, as designated in section 16C.06.04, shall meet the following standards listed below,
2983 rather than the development standards in 16C.06.10 through 16C.06.23 for Hydrologically
2984 Related Critical Areas, unless review is also needed for a Hydrologically Related Critical Areas.

2985 1) Projects shall be designed using management recommendations established for the species or
2986 habitat by federal and state agencies, or those adopted for Species and Habitats of Local
2987 Importance by Yakima County. The department shall consider the extent such
2988 recommendations are used in its decision on the proposal, and may consider
2989 recommendations and advice from the agencies with expertise.

2990

2991 **General Development Standards**

2992

2993 **16C.06.10 Prohibited Uses**

2994 The following uses and activities are prohibited within a designated hydrologically related
2995 critical area:

2996 1) Storage, handling, and disposal of material or substances that are dangerous or hazardous
2997 with respect to water quality and life safety;
2998 2) Confinement feeding operations including livestock feedlots and dairy confinement areas;
2999 3) The placement of mining tailings, spoilage, and mining waste materials, except for that
3000 associated with the mining of gravel;
3001 4) The draining or filling of a wetland, lake or pond, except as provided for in Section
3002 16C.06.21 (Filling);
3003 5) The removal and transport of material for fill outside of the stream corridor;
3004 6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds,
3005 and other similar waste disposal facilities. This provision does not include municipal
3006 wastewater lines or septic systems approved by a local or state agency with authority to
3007 permit such facilities;
3008 7) Solid waste disposal sites;
3009 8) Automobile wrecking yards;
3010 9) Fill for the sole purpose of increasing land area within the stream corridor;
3011 10) Those uses located within the floodway fringe that are listed in 16C.05.32.020 (new and
3012 expanded mobile or manufactured home parks);
3013 11) Those uses located within the floodway that are listed in 16C.05.36.020 (dwellings, filling
3014 wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and any
3015 use causing flood impacts.)

3016

3017 **16C.06.11 General Policies and Standards**

3018 The following policies and standards shall apply to any development, construction, or use carried
3019 out within a designated hydrologically related critical area:

3020 1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside
3021 edges of stream and/or wetland buffers shall be marked on the ground before any
3022 development, construction, or use is initiated.

3023 2) Existing riparian vegetation and any unique or sensitive vegetative species identified on the
3024 project site within the stream corridor shall be disturbed to the minimum extent possible.

3025 3) Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be
3026 disturbed to the minimum extent possible.

3027 4) Projects within the stream corridor shall be scheduled to occur at times and during seasons
3028 having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling
3029 recommendations from the appropriate state and/or federal agency may be considered.

3030 5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved
3031 by a local, state or federal agency, and transportation projects using stormwater manuals that
3032 are deemed equivalent to the Eastern Washington Stormwater Manual are exempt from the
3033 requirements below.

3034 a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to
3035 erosion of upland soils shall be confined to the minimum necessary to complete the
3036 authorized work and avoid increased sediment load.

3037 b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for
3038 periods when soils are the least vulnerable to erosion, compaction and movement unless
3039 suitable protective measures are used to prevent erosion.

3040 c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to
3041 ensure the minimal duration of exposed, unprotected soils.

3042 d) Increases in impervious surface area, compaction of soil, changes in topography, and
3043 other modifications of land within a stream corridor which are determined will
3044 permanently increase stormwater and meltwater runoff into stream channels, drainage
3045 ways, and conduits, shall provide on-site or off-site facilities for the detention, control,
3046 and filtration of such increases.

3047 e) The discharge point for controlled stormwater and meltwater runoff and other outfall
3048 shall be designed and constructed to avoid causing erosion through the use of native
3049 riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap,
3050 splash plates, or other demonstrably effective means.

3051 f) Matting or approved temporary ground cover shall be used to control erosion until natural
3052 vegetative ground cover is successfully established.

3053 6) Development, construction, and uses shall not directly or indirectly degrade surface water
3054 and groundwater through the introduction of nutrients, fecal coliform, toxins, and other
3055 biochemical substances.

3056 7) Prior to the approval of development, construction, or uses within a designated stream
3057 corridor, any existing source of biochemical or thermal degradation identified as originating
3058 on the project property or on contiguous properties of the same ownership shall be corrected.

3059 8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk
3060 products, application schedules, and other protective methodology to minimize the surface
3061 and subsurface transfer of biochemical materials into the stream corridor.

3062 9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other
3063 stream features shall not permanently alter or obstruct the natural volume or flow of surface
3064 waters.

3065 10) Development, construction, or uses within the stream corridor shall not alter or divert flood
3066 flows causing channel shift or erosion, increase or accelerate the flooding of upstream or
3067 downstream flood hazard areas, or otherwise threaten public or private properties.

3068 11) Wells located within a stream corridor shall be protectively lined and installed in a deep
3069 aquifer with an acceptable minimum hydraulic continuity with either surface waters or a
3070 shallow aquifer.

3071 12) Structures placed in close proximity to the outer edge of bends in stream channels identified
3072 as having a high potential to meander shall be located to minimize the hazard from stream
3073 undercutting and stream bank erosion stemming from potential future stream migration.

3074 13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration
3075 or relocation of a watercourse and evidence of such notification shall be submitted to the
3076 Federal Emergency Management Agency.

3077 14) Require that maintenance is provided within the altered or relocated portion of said
3078 watercourse so that the flood-carrying capacity is not diminished.

3079 15) Development, construction, or uses within the hydrologically related critical area that would
3080 contribute to the degradation of the functions and values shall be avoided or mitigated using
3081 mitigation sequencing as outlined in section 16C.03.10 (Mitigation Requirements).

3082 16) Development shall not obstruct, cut off, or isolate stream corridor features.

3083 17) Nothing in these regulations shall constitute authority of any person to trespass or in any way
3084 infringe upon the rights of private ownership.

3085 18) If archaeological resources are uncovered during excavation, developers and property owners
3086 shall immediately stop work and notify Yakima County, the Washington State Office of
3087 Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites
3088 are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites
3089 and records), and development or uses that may impact such sites shall comply with WAC
3090 25-48 (Archaeological Excavation and Removal Permit).

3091 19) The provisions of Chapter 16C.05 of this title shall also apply to the development of lots and
3092 the placement, construction, or installation of structures in floodways and floodplains.

3093 20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of
3094 construction activities (excluding approved permanent use areas) shall be repaired at the
3095 completion of construction using reclamation standards in section 16C.06.23 (Reclamation).

3096 21) Projects located within the floodway must meet the requirements of 16C.05.36.010
3097 (Floodway – Permitted Uses).

3098 22) Projects within a floodplain must meet the requirements of section 16C.05.28. (Flood Hazard
3099 Protection Standards) and 16C.05.32 (Floodway Fringe Uses).

3100 23) Changing from an existing use or development which does not meet the provisions of this
3101 chapter to a new use shall be reviewed in light of the following:
3102 a) The conversion will demonstrably reduce impacts to stream corridor and other
3103 hydrologically related critical area features; and
3104 b) The conversion will restore and/or enhance the functional properties outlined in Section
3105 16C.06.05 (Functional Properties).

3107 **Water Dependency Development Standards and Buffer Requirements**

3108
3109 **16C.06.12 Use Classifications**

3110 For purposes of this chapter, the components of any development, construction, or use requiring
3111 a critical area development authorization shall be classified as provided below, and shall conform
3112 with the development standards applicable to the classification provided in 16C.06.13 through
3113 16C.06.15, except for those activities listed in Section 16C.03.05 (Minor Activities Allowed
3114 without a Permit or Exemption):

3115 1) Water Oriented Uses are one of the following two (2) categories of uses:

- 3116 a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching
3117 facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland
3118 crossings for roads and railroads, stream and wetland crossings for utilities, swimming
3119 beaches, fishing sites, in-water or on-land shore stabilization structures, livestock
3120 watering sites, and other uses that cannot exist in any other location and are dependent on
3121 the water by reason of the intrinsic nature of their operations. This provision applies only
3122 to the specific portion of a project that is demonstrably dependent upon the water or
3123 shore.
- 3124 b) A water-related use is one not intrinsically dependent on a waterfront location but whose
3125 economic viability is enhanced by a waterfront location either because it requires large
3126 quantities of water, or because it provides services for water dependant uses and the
3127 proximity to its customers makes such services less expensive and/or more convenient.
3128 Examples would include thermal power plants, wastewater treatment plants, water
3129 processing and treatment plants, support services for fish hatcheries or aquaculture, fly
3130 shops and boat rental shops.

3131 2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

3133 **16C06.13 Water-dependent Uses**

3134 The following provisions shall apply to water-dependent uses:

- 3135 1) Structures shall be clustered at locations on the water's edge having the least impact to the
3136 surface water and shore;
- 3137 2) Use areas and structures which require direct shore locations shall be located and constructed
3138 to minimize impacts to the shore area and the vegetative buffer specified in Section
3139 16C.06.16 (Vegetative Buffers);
- 3140 3) Use areas and structures requiring direct shore locations shall minimize any obstruction or
3141 impairment of normal public navigation of the surface water.

3143 **16C.06.14 Water-related Uses**

3144 The following provisions shall apply to water-related uses:

- 3145 1) Structures and use areas shall be located as far landward from the ordinary high water mark
3146 or wetland edge as is possible and still preserve the essential or necessary relationship with
3147 the surface water;
- 3148 2) Structures and use areas shall not be located within the vegetative buffer specified in Section
3149 16C.06.16 (Vegetative Buffers) except where existing development or the requirements
3150 associated with the use make such a location unavoidable.

3152 **16C.06.15 Non-water Oriented Uses**

3153 The following provisions shall apply to non-water-oriented uses:

- 3154 1) Structures and use areas shall be set back so as not to be located within the vegetative buffer
3155 specified in Section 16C.06.16 (Vegetative Buffers);

3156 2) Construction abutting the vegetative buffer specified in Section 16C.06.16 (Vegetative
 3157 Buffers) shall be designed and scheduled to ensure there will not be permanent damage or
 3158 loss of the vegetative buffer.

3159

3160 **16C.06.16 Vegetative Buffers**

3161 Establishment. There is hereby established a system of vegetative buffers that are necessary to
 3162 protect the functions and values of certain hydrologically related critical areas. Standard and
 3163 minimum buffers for streams, lakes, ponds and wetlands, based on a review of the best available
 3164 science, are listed in table 6-1 and 6-2.

3165 1) Vegetative buffers shall be measured from the Ordinary High Water Mark (OHWM) for
 3166 streams, lakes and ponds, and from the wetland edge for wetlands, as identified in the field.
 3167 The width of the buffer shall be determined according to the stream or wetland type.

3168 2) Buffer width may be reduced through an Adjustment (16C.03.23) permit process. Type 1
 3169 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D)
 3170 rather than the Critical Areas Ordinance (YCC Title 16C).

3171 3) The minimum buffer widths listed in Tables 4-1 and 4-2 apply only for Adjustments.
 3172 Adjustments below the minimum buffer must meet additional approval criteria as provided in
 3173 section 16C.03.23(3)(d) (Adjustments).

3174 4) The adequacy of these standard buffer widths presumes the existence of a relatively intact
 3175 native vegetation community in the buffer zone adequate to protect the stream functions and
 3176 values at the time of the proposed activity. If the vegetation is degraded, then no adjustment
 3177 to the buffer width should be granted and re-vegetation should be considered. Where the use
 3178 is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

3179

3180 **Table 6 – 1**

Stream Type	Buffer Width
	Standard/(minimum adjustment) See 16C.06.16, subsections 1-4.
Type 1 Shoreline streams, lakes and ponds	100'
Type 2 streams, lakes and ponds	75'/(25')
Type 3 streams (Perennial), lakes and ponds	50'/(25')
Type 4 streams (Intermittent), lakes and ponds	25'/(15')
Type 5 streams (Ephemeral)	No buffer standards Type 5 streams are not regulated.

3181

3182 **Table 6-2**

Type 1 Wetlands (standard/minimum)	Type 2 Wetlands (standard/minimum)	Type 3 Wetlands (standard/minimum)	Type 4 Wetlands (standard/minimum)
200' / 25'	100' / 25'	75' / 25'	50' / 25'

3183

3184 **Land Modification Development Standards**

3185

3186 **16C.06.17 Roads, Railroads and Parking**

3187 The following provisions shall apply to the location and construction of roads, railroads and
3188 parking within a designated hydrologically related critical area; except that logging roads, being
3189 a special category of roads, may be regulated as Forest Practices under this title (refer to those
3190 relevant sections):

- 3191 1) Roads and railroads shall not be located within a designated stream corridor except where it
3192 is necessary to cross the corridor, or where existing development, topography, and other
3193 conditions preclude locations outside the stream corridor.
 - 3194 a) Construction of roadways across stream corridors shall be by the most direct route
3195 possible having the least impact to the stream corridor.
 - 3196 b) Roadways that must run parallel to stream or wetland edges shall be along routes having
3197 the greatest possible distance from stream or wetland and the least impact to the corridor.
 - 3198 c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate
3199 stream corridor features.
- 3200 2) Material excavated from the roadway area to achieve the design grade shall be used as fill
3201 where necessary to maintain grade, or shall be transported outside the corridor;
- 3202 3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause
3203 displacement that would increase the elevation of flood waters such that it would cause
3204 properties not in the floodplain to be flood-prone;
- 3205 4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the
3206 stream corridor;
- 3207 5) Bridges and water-crossing structures shall not constrict the stream channel or impede the
3208 flow of the ordinary high water, sediment and woody debris;
- 3209 6) The preservation of natural stream channels and drainage ways shall be preferred over the use
3210 of culverts, where culverts are the preferred method, large, natural bottom culverts, multi-
3211 plate pipes and bottomless arches are preferred;
- 3212 7) The alignment and slope of culverts shall parallel and match the natural flow of streams or
3213 drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to
3214 accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.
- 3215 8) Where fish are present, culverts shall be designed and constructed to specifications provided
3216 through the Department of Fish and Wildlife or a comparable source of expertise;
- 3217 9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed
3218 away during high water;
- 3219 10) Roads must be designed and constructed using established flood resistant and design and
3220 construction methods when they may be subject to damage by flood waters;
- 3221 11) Roads and bridges within floodways must meet the requirements of section 16C.05.36.010
3222 subsection (7) and (2).

3224 **16C.06.18 Utility Transmission Lines and Facilities**

3225 The following provisions shall apply to the location, construction, or installation of utility
3226 transmission lines and facilities (such as those for wastewater, water, communication, natural
3227 gas, etc.) within a designated hydrologically related critical area:

- 3228 1) Utility transmission lines and facilities shall be permitted within the stream corridor only
3229 where it is necessary to cross the corridor or where existing development, topography, and
3230 other conditions preclude locations outside the stream corridor.
 - 3231 a) Utility transmission lines and facilities across stream corridors shall be by the most direct
3232 route possible having the least impact to the stream corridor.

3233 b) The construction of utility transmission lines and facilities within a stream corridor shall
3234 be designed and located to ensure minimum disruption to the functional properties
3235 specified under Section 16C.06.05 (Functional Properties) of this title.

3236 2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy
3237 replacement or repair with minimal disturbance to the stream corridor;

3238 3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four
3239 feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is
3240 greater, and for a similar depth below any associated floodway and floodplain to the
3241 maximum extent of potential channel migration as determined by hydrologic analysis;

3242 4) Wherever possible, new aboveground installations shall use available, existing bridge and
3243 utility locations and stream corridor crossings as opposed to creating new locations and
3244 stream corridor crossings;

3245 5) Aboveground electrical support towers and other similar transmission structures shall be
3246 located as far upland as is practical;

3247 6) Transmission support structures shall be located clear of high flood velocities, located in
3248 areas of minimum flood depth which require the least floodproofing, and shall be adequately
3249 floodproofed;

3250 7) Underground utility transmission lines shall be constructed so they do not alter, intercept or
3251 dewater groundwater patterns that support streams, wetlands and hyporheic flow;;

3252 8) All new and replacement water supply systems and wastewater systems within a special
3253 flood hazard area must meet the requirements of 16C.05.28.010(b) (re: infiltration or
3254 discharge into or out of the system);

3255 9) Utility transmission lines within the Floodway Fringe shall meet the standards of
3256 16C.05.32.010 (2);

3257 10) Utility transmission lines within the Floodway shall meet the standards of 16C.05.36.010(2).

3259 **16C.06.19 Shore Stabilization**

3260 1) The following provisions shall apply to shore stabilization projects:
3261 Shore stabilization projects shall be allowed only where there is evidence of erosion which
3262 clearly represents a threat to existing property, structures, or facilities, and which
3263 stabilization will not jeopardize other upstream or downstream properties;

3264 2) Stabilization projects shall be developed under the supervision of, or in consultation with,
3265 agencies or professionals with appropriate expertise;

3266 3) Stabilization projects shall be confined to the minimum protective measures necessary to
3267 protect the threatened property;

3268 4) The use of fill to restore lost land may accompany stabilization work, provided the resultant
3269 shore does not extend beyond the new ordinary high water mark, finished grades are
3270 consistent with abutting properties, a restoration plan is approved for the area, and the fill
3271 material is in compliance with Section 16C.06.21 (Filling);

3272 5) Stabilization projects shall use design, material, and construction alternatives that do not
3273 require high or continuous maintenance and which prevent or minimize the need for
3274 subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable
3275 debris are not to be used in shore stabilization projects;

3276 6) Alternative Preferences. Vegetation, berms, bioengineering techniques, and other
3277 nonstructural alternatives which preserve the natural character of the shore shall be preferred
3278 over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization.

3279 Riprap using rock or other natural materials shall be preferred over concrete revetments,
3280 bulkheads, breakwaters, and other structural stabilization;

3281 7) Applications to construct or enlarge dikes or levees shall meet the requirements of
3282 16C.05.36.010(6);

3283 8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the
3284 shore;

3285 9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or
3286 other solid construction methods;

3287 10) All new flood control projects shall define maintenance responsibilities and a funding source
3288 for operations, maintenance, and repairs for the life of the project.

3289

16C.06.20 Dredging and Excavation

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

- 3293 1) Dredging in surface waters shall be allowed only where necessary because of existing
3294 navigation needs, habitat restoration or improvement, maintenance or construction of water-
3295 dependent uses;
- 3296 2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the
3297 intended purpose or use;
- 3298 3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom
3299 materials shall be preferred over agitation forms of dredging;
- 3300 4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal
3301 of sediments and other dredge materials;
- 3302 5) Entries across shore and wetland edges to accomplish dredging or excavation shall be
3303 confined to the minimum area necessary to gain entry and shall be confined to locations with
3304 the least potential for site disturbance and damage;
- 3305 6) Dredging and excavation shall be scheduled at times having the least impact to fish
3306 spawning, nesting patterns, and other identified natural processes;
- 3307 7) Dredge spoils are also considered fill, and shall not be deposited within the stream except
3308 where such deposit is in accordance with approved procedures intended to preserve or
3309 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:

- 3314 1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction
3315 with water-dependent uses, or an approved reclamation plan under Section 16C.06.23
3316 (Reclamation) or approved compensatory mitigation plan under Section 16C.03.17(13);
- 3317 2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in
3318 a manner consistent with the policies of this chapter;
- 3319 3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined
3320 to areas having the least impact to the stream corridor. Other alternatives should be preferred
3321 over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-
3322 rise methods such as piers, posts, columns, or other methods;
- 3323 4) Fill in floodplains shall meet the requirements of chapter 16C.05 (Flood Hazards);
- 3324 5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities;

3325 6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands
3326 shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade
3327 water quality;

3328 7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting
3329 patterns, and other identified natural processes;

3330 8) Fill and finished surface material shall require low maintenance, provide high resistance to
3331 erosion, and prevent or control the migration of sediments and other material from the fill
3332 area to surrounding water, shore, and wetlands, unless the Washington Department of Fish
3333 and Wildlife indicates other options are preferred;

3334 9) Projects that propose fill shall make every effort to acquire fill onsite (also known as
3335 compensatory storage) where appropriate;

3336 10) Fill should not obstruct, cut off, or isolate stream corridor features.

3337

16C.06.22 Commercial Mining of Gravels

3339 The following provisions shall apply to the commercial mining of gravels within a designated
3340 hydrologically related critical area, except that mining may be regulated as Forest Practices
3341 under this title, (refer to those relevant sections):

3342 1) Prior to the authorization of a commercial gravel mining operation, the project proponent
3343 shall provide maps to scale which illustrate the following:

3344 a) The extent to which gravel excavation and processing will affect or modify existing
3345 stream corridor features, including existing riparian vegetation;

3346 b) The location, extent and size in acreage of any pond, lake, or feature that will be created
3347 as a result of mining excavation;

3348 c) The description, location, and extent of any proposed subsequent use that would be
3349 different than existing uses.

3350 2) Wherever feasible, the operations and any subsequent use or uses shall not cause permanent
3351 impairment or loss of floodwater storage, wetland, or other stream corridor features.
3352 Mitigation shall provide for the feature's replacement at equal value;

3353 3) Any surface mining allowed within the floodway shall meet the standards of
3354 16C.05.36.010(1);

3355 4) Except where authorized by Yakima County in consultation with the State Department of
3356 Fish and Wildlife and Department of Ecology, the following shall apply:

3357 a) The excavation zone for the removal of gravels shall be located a minimum of one
3358 hundred feet upland from the ordinary high water mark (OHWM) of the stream channel;

3359 b) Equipment shall not be operated, stored, refueled, or provided maintenance within one
3360 hundred feet of the OHWM;

3361 c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within
3362 one hundred feet of the OHWM.

3363 5) Mining proposals shall be consistent with the Washington Department of Natural Resources
3364 Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

3365

16C.06.23 Reclamation

3366 The following guidelines shall apply to the reclamation of disturbed sites resulting from
3367 development activities within a designated hydrologically related critical area:

3369 1) Development, construction, or uses shall include the timely restoration of disturbed features
3370 to a natural condition or to a stabilized condition that prevents degradation within the stream
3371 corridor;

3372 2) Large-scale projects or projects extending over several months shall be phased to allow
3373 reclamation of areas where work or operations have been completed;

3374 3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season,
3375 and other seasonal variables that influence restoration and recovery;

3376 4) Topography shall be finished to grades, elevations, and contours consistent with natural
3377 conditions in adjacent and surrounding areas;

3378 5) Where existing development and construction prevent the return of a site to its natural
3379 condition, sites may be finished to conditions comparable to surrounding properties provided
3380 suitable protective measures are used to prevent stream corridor degradation;

3381 6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the
3382 materials involved;

3383 7) The replacement or enhancement of vegetation within wetlands and required vegetative
3384 buffers shall use naturally occurring, native plant species. In other parts of the stream
3385 corridor, naturally occurring, native plant species shall be used, unless a showing of good
3386 cause acceptable to the Administrative Official is provided, in which case self-maintaining or
3387 low-maintenance plant species compatible with native vegetation shall be preferred over non-
3388 native and high-maintenance species.

3389
3390
3391
3392 **Chapter 16C.07**
3393 **WETLANDS**

3394 Sections:

3395 16C.07.01 Purpose and Intent
3396 16C.07.02 Designating and Mapping
3397 16C.07.03 Protection Approach
3398 16C.07.04 Wetland Functions and Rating
3399 16C.07.05 Compensatory Mitigation Requirements
3400 16C.07.06 Wetland Mitigation Banks

3401 **16C.07.01 Purpose and Intent** - The purpose and intent of the provisions protecting wetland
3402 critical areas is equivalent to the purpose and intent for Chapter 16C.06.01 (Purpose and Intent).

3403 **16C.07.02 Designating and Mapping**

3404 1) Wetlands are those areas that meet the definition found in Section 16C.02.425 as provided in
3405 RCW 36.70A.030(20). All areas within Yakima County meeting the wetland definition are
3406 hereby designated critical areas and are subject to the provisions of this title. The following
3407 clarifications guide the application of the wetland definition:
3408 a) Due to the inherent design of most irrigation systems, such systems are reasonably and
3409 foreseeably expected to result in some leakage or seepage. Such leakage or seepage is a
3410 normal result of utilization of irrigation systems and is deemed for the purposes of this
3411 title to be a non-regulated, artificial wetland.
3412 2) The approximate location and extent of wetlands are shown on maps maintained by Yakima
3413 County, which may include information from the National Wetlands Inventory produced by
3414 the US Fish and Wildlife Service and soil maps produced by United States Department of
3415 Agriculture National Resources Conservation Service that are useful in helping to identify
3416 potential wetland areas. These maps are to be used as a guide for Yakima County, project
3417 applicants and/or property owners, and may be continuously updated as wetlands are more
3418 accurately identified, located and delineated.

3419
3420 **16C.07.03 Protection Approach**

3421 1) Wetlands will be protected using the Protection Approach for Hydrologically Related Critical
3422 Areas found in 16C.06.02 (Protection Approach), which accommodates issues affecting
3423 wetlands.
3424 2) Wetlands and their functions will be protected using the standards found in the Stream
3425 Corridor Chapter (16C.06), which includes provisions to:
3426 a) follow mitigation sequencing as outlined in section 16C.03.10 (Mitigation
3427 Requirements);
3428 b) avoid degrading the functions and values of the wetland and other critical areas;
3429 c) provide a zero net loss of wetland functions and values together with, if reasonably
3430 possible through voluntary agreements or government incentives, a gain in functions and
3431 values through the long term.

3432
3433 **16C.07.40 Wetland Functions and Rating**

3434 1) Wetlands are unique landscape features that are the interface between the aquatic and
3435 terrestrial environments. Wetlands provide the following functions:
3436 a) Biogeochemical functions, which are related to trapping and transforming chemicals and
3437 include functions that improve water quality in the watershed such as: nutrient retention
3438 and transformation, sediment retention, metals and toxics retention, and transformation;
3439 b) Hydrologic functions, which are related to maintaining the water regime in a watershed,
3440 such as: flood flow attenuation, decreasing erosion, groundwater recharge;
3441 c) Food web and habitat functions, which includes habitat for: invertebrates, amphibians,
3442 anadromous fish, resident fish, birds, mammals.

3443 2) Wetlands shall be rated based on categories that reflect the functions and values of each
3444 wetland. Wetland categories shall be based on the criteria provided in the *Washington State*
3445 *Wetland Rating System for Eastern Washington*, revised August 2004 (Ecology Publication
3446 #04-06-15 - <http://www.ecy.wa.gov/pubs/0406015.pdf>) as determined using the appropriate
3447 rating forms contained in that publication. These categories are summarized as follows:
3448 a) Category I wetlands are those that represent a unique or rare wetland type, are more
3449 sensitive to disturbance than most wetlands, are relatively undisturbed and contain
3450 ecological attributes that are impossible or too difficult to replace within a human
3451 lifetime, and provide a high level of functions. Generally, these wetlands are not
3452 common and make up a small percentage of the wetlands within Yakima County. The
3453 following types of wetlands are Category I:
3454 i) Alkali wetlands;
3455 ii) Natural Heritage Wetlands - Wetlands that are identified by scientists of the
3456 Washington Department of Natural Resources Natural Heritage Program as high
3457 quality, relatively undisturbed wetlands, or wetlands that support state Threatened, or
3458 Endangered plant species;
3459 iii) Bogs;
3460 iv) Mature and old-growth forested wetlands with native slow growing trees, which
3461 include Western Red Cedar (*Thuja plicata*), Alaska Yellow Cedar (*Chamaecyparis*
3462 *nootkatensis*), pine species (mostly White pine - *Pinus monticola*), Western Hemlock
3463 (*Tsuga heterophylla*), Oregon White Oak (*Quercus garryana*) and Englemann Spruce
3464 (*Picea engelmannii*);
3465 v) Forested wetlands with stands of Aspen;
3466 vi) Wetlands scoring 70 points or more (out of 100) in the Eastern Washington Wetland
3467 Rating System.

3468 b) Category II wetlands are difficult, though not impossible, to replace, and provide high
3469 levels of some functions. These wetlands occur more commonly than Category I
3470 wetlands, but still need a relatively high level of protection. Category II wetlands include:
3471 i) Forested wetlands in the floodplains of rivers;
3472 ii) Mature and old-growth forested wetlands with native fast growing trees, which
3473 include Alders (Red - *Alnus rubra*, Thin leaf - *A. tenuifolia*), Cottonwoods (Narrow
3474 leaf - *Populus angustifolia*, Black - *P. balsamifera*), Willows (Peach leaf - *Salix*
3475 *amygdaloides*, Sitka - *S. sitchensis*, Pacific - *S. lasiandra*); Aspen (*Populus*
3476 *tremuloides*); or Water Birch (*Betula occidentalis*)
3477 iii) Vernal pools;
3478 iv) Wetlands scoring between 51-69 points (out of 100) in the Eastern Washington
3479 Wetland Rating System.

3480 c) Category III wetlands are often smaller, less diverse and/or more isolated from other
3481 natural resources in the landscape than Category II wetlands. Category III wetlands
3482 include:
3483 i) vernal pools that are isolated, and
3484 ii) wetlands with a moderate level of functions (scoring between 30 -50 points) in the
3485 Eastern Washington Wetland Rating System.

3486 d) Category IV wetlands have the lowest levels of functions, scoring less than 30 points in
3487 the Eastern Washington Wetland Rating System, and are often heavily disturbed. These
3488 are wetlands that should be able to be replaced, and in some cases be improved. These
3489 wetlands may provide some important functions, and also need to be protected.

3490 3) The wetland rating categories as described in section (2), above, shall be applied to projects
3491 which are submitted on or after the date of adoption of these provisions. The wetlands shall
3492 be rated as they exist on the day of project application submission, as the wetland naturally
3493 changes thereafter, or as the wetland changes in accordance with permitted activities.
3494 However, illegal modifications to wetlands which have been made since the original
3495 adoption of the Critical Areas Ordinance (YCC Title 16A 1995) shall not be considered when
3496 rating the wetland. Information regarding the original condition of illegally modified
3497 wetlands that can not be discerned from aerial photographs or other reliable information
3498 sources, which is needed to complete the *Eastern Washington Wetland Rating System* data
3499 sheets, shall use the highest appropriate points value within each missing data field of the
3500 rating sheet to complete the rating.

3501 **16C.07.05 Compensatory Mitigation Requirements**

3502 Projects that propose to compensate for wetland acreage and/or functions are subject to State and
3503 Federal regulations. Compensatory mitigation for alterations to wetlands shall provide no net
3504 loss of wetland functions and values, and must be consistent with the Mitigation Plan
3505 Requirements in section 16C.03.17 (13) (Compensatory Mitigation Plans). The following
3506 guidance documents were developed to assist applicants in meeting the regulations and
3507 requirements.

3508 1) Compensatory mitigation plans must be consistent with *Guidance on Wetland Mitigation in*
3509 *Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and*
3510 *Proposals* or as revised (Washington State Department of Ecology, U.S. Army Corps of
3511 Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology
3512 publication number 04-06-013B -
3513 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).

3514 2) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent
3515 with "*Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing*
3516 *Wetlands – Appendix 8-D- Section 8-D3*" or as revised (Washington State Department of
3517 Ecology. Publication number 05-06-008 -
3518 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).

3519 **16C.07.06 Wetland Mitigation Banks**

3520 1) Credits from a wetland mitigation bank may be approved for use as compensation for
3521 unavoidable impacts to wetlands when:
3522 a) The bank is certified under RCW 90.84 and its administrative rules WAC 173-700;

3525 b) The Administrative Official determines that the wetland mitigation bank provides
3526 appropriate compensation for the authorized impacts; and
3527 c) The proposed use of credits is consistent with the terms and conditions of the bank's
3528 certification.

3529 2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios
3530 specified in the bank's certification.

3531 3) Credits from a certified wetland mitigation bank may be used to compensate for impacts
3532 located within the service area specified in the bank's certification. In some cases, bank
3533 service areas may include portions of more than one adjacent drainage basin for specific
3534 wetland functions.

Chapter 16C.08

GEOLOGICALLY HAZARDOUS AREAS

Sections:

- 16C.08.01 Purpose and Intent
- 16C.08.02 Mapping and Designation
- 16C.08.03 Geologically Hazardous Areas Protection Approach
- 16C.08.04 Supplemental Development Review Procedure for Geologically Hazardous Areas
- 16C.08.05 General Protection Requirements
- 16C.08.06 Critical Area Report – Geologic Assessment

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, based on WAC 365-190-080 (4)(b) through (h):

- a) Erosion hazards;
- b) Landslide hazards, which in the Yakima County inventory includes:
 - i) oversteepened slope hazards;
 - ii) alluvial fan/flash flooding hazards;
 - iii) avalanche hazards, and;
 - iv) stream undercutting hazards;
- c) Seismic hazards (referred to below as earthquake hazards);
- d) 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 **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

3671 3) **Alluvial fan/flash flooding hazard areas** - Protection measures for alluvial fan/flash
3672 flooding hazard areas will be accomplished through the review process of 16C.08.04
3673 (Development Review Procedure for Geologically Hazardous Areas), by implementing the
3674 development standards of 16C.08.05 (General Protection Requirements), and by
3675 implementing the appropriate sections of the International Building Code (IBC) as adopted in
3676 YCC Title 13 (currently Section 16 Structural Design; Section 18 Soils and Foundations;
3677 Appendix J Grading; and, Flood Resistant Design and Construction (ASCE-24-98)).
3678 4) **Stream undercutting hazard areas** - Protection measures for stream undercutting hazard
3679 areas will be accomplished by Critical Areas review for flood hazards, streams, and
3680 Shoreline jurisdiction, in addition to implementing the appropriate sections of the
3681 International Building Code (IBC) as adopted in YCC Title 13 (Flood Resistant Design and
3682 Construction (ASCE-24-98)).
3683 5) **Avalanche hazard areas** - Protection measures for avalanche hazard areas will be
3684 accomplished through the review process of 16C.08.04 (Development Review Procedure for
3685 Geologically Hazardous Areas), by implementing the development standards of 16C.08.05
3686 (General Protection Requirements), and by implementing the appropriate sections of the
3687 International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16
3688 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
3689 6) **Oversteepened slope hazard areas** - Protection measures for oversteepened slope hazard
3690 areas will be accomplished through the review process of 16C.08.04 (Development Review
3691 Procedure for Geologically Hazardous Areas), by implementing the development standards
3692 of 16C.08.05 (General Protection Requirements), and by implementing the appropriate
3693 sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently
3694 Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
3695 7) **Earthquake/Seismic hazard area protection standards** - Protection measures for
3696 earthquake/Seismic hazard areas will be accomplished by implementing the appropriate
3697 sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently
3698 Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
3699 8) **Suspected geologic hazard areas and Risk unknown hazard areas** - Protection measures
3700 for suspected geologic hazard areas and risk unknown hazard areas will be accomplished
3701 through the review process of 16C.08.04 (Development Review Procedure for Geologically
3702 Hazardous Areas), by implementing the development standards of 16C.08.05 (General
3703 Protection Requirements), and by implementing the appropriate sections of the International
3704 Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design;
3705 Section 18 Soils and Foundations; and, Appendix J Grading).
3706

3707 **16C.08.04 Development Review Procedure for Geologically Hazardous Areas**

3708 1) The Administrative Official shall make a determination of hazard to confirm whether the
3709 development or its associated facilities (building site, access roads, limits of grading/
3710 excavation/ filling, retaining walls, septic drainfields, landscaping, etc.):
3711 a) are located within a mapped geologically hazardous area;
3712 b) are abutting, or adjacent to a mapped geologically hazardous area and may result in or
3713 contribute to an increase in hazard, or pose a risk to life and property on or off the site;
3714 c) are located within a distance from the base of an adjacent landslide hazard area equal to
3715 the vertical relief of said hazard area;
3716 d) are located within the potential run-out path of a mapped avalanche hazard.

3717 2) Developments that receive an affirmative determination of hazard by the Administrative
3718 Official under (1) above, must conduct a geologic hazard report as provided in 16C.03.18(4)
3719 (Supplemental Report Requirements – Geologically Hazardous Areas), which may be part of
3720 a geo-technical report required under additional review below.

3721 a) If the geologic hazard report determines no hazard exists or that the project area lies
3722 outside the hazard, then no Geologic Hazard review is needed.

3723 b) The Administrative Official is authorized to waive further geologic hazard review for
3724 oversteepened slope hazards on a determination that the hazards identified in the
3725 geologic hazard report will be adequately mitigated under grading or construction
3726 permits.

3727 3) Developments that receive an affirmative determination of hazard, but do not meet the
3728 provisions of paragraph 2a or 2b above, must:

3729 a) Obtain a Critical Areas Development Authorization under 16C.03 (Application and
3730 Review Procedures);

3731 b) Submit a geo-technical report that is suitable for obtaining the grading and construction
3732 permits that will be required for development. The geo-technical report should
3733 incorporate the submitted assessment, include the design of all facilities and include a
3734 description and analysis of the risk associated with the measures proposed to mitigate the
3735 hazards, ensure public safety, and protect property and other critical areas, and;

3736 c) Be consistent with the General Protection Requirements of section 16C.08.05 (General
3737 Protection Requirements).

3738 **16C.08.05 General Protection Requirements**

3739 1) Grading, construction, and development and their associated facilities shall not be located in
3740 a geologically hazardous area, or any associated setback for the project recommended by the
3741 geo-technical report, unless the applicant demonstrates that the development is structurally
3742 safe from the potential hazard, and that the development will not increase the hazard risk
3743 onsite or off-site.

3744 2) Development shall be directed toward portions of parcels, or parcels under contiguous
3745 ownership, that are at the least risk of hazard in preference to lands with higher risk, unless
3746 determined to be infeasible in the geo-technical report.

3747 3) The geo-technical report shall recommend methods to ensure the information and education
3748 about the hazard and any recommended buildable area for future landowners over the long
3749 term.

3750 4) The applicable requirements of grading and construction permits for developments in
3751 hazardous areas must be included in the development proposal and geo-technical report.

3753 **Chapter 16C.09**

3754 **CRITICAL AQUIFER RECHARGE AREAS (CARA)**

3755

3756 Sections:

3757 16C.09.01 Purpose and Intent
3758 16C.09.02 Mapping
3759 16C.09.03 Protection Approach
3760 16C.09.04 References

3761

3762 **16C.09.01 Purpose and Intent**

3763 1) The Growth Management Act (RCW 36.70A) requires local jurisdictions to protect, through
3764 designation and protection, areas with a critical recharging effect on aquifers used for potable
3765 water, or areas where a drinking aquifer is vulnerable to contamination that would affect the
3766 potability of the water. These areas are referred to as Critical Aquifer Recharge Areas
3767 (CARA) in this title.
3768 2) Potable water is an essential life sustaining element. Much of Yakima County's drinking
3769 water comes from groundwater supplies. Once groundwater is contaminated it can be
3770 difficult, costly, and sometimes impossible to clean up. In some cases, the quality of
3771 groundwater in an aquifer is inextricably linked to its recharge area
3772 3) The intent of this chapter is to:
3773 a) Preserve, protect, and conserve Yakima County's CARA from contamination;
3774 b) Establish a protection approach that emphasizes the use of existing laws and regulations,
3775 and minimizes the use of new regulations.
3776 4) It is not the intent of this ordinance to:
3777 a) regulate everyday activities (including the use of potentially hazardous substances that
3778 are used according to State and Federal regulations and according to label specifications);
3779 b) enforce or prevent illegal activities;
3780 c) regulate land uses that use or store small volumes of hazardous substances (including in-
3781 field agricultural chemical storage facilities, which do not require permits, or are already
3782 covered under existing state, federal, or county review processes and have detailed permit
3783 review);
3784 d) establish additional review for septic systems, which are covered under existing County
3785 review processes and have detailed permit review by another agency;
3786 e) establish additional review for stormwater control, which are covered under existing
3787 County review processes and have detailed permit review, or;
3788 f) require review for uses that do not need building permits and/or zoning review.

3789

3790 The above items are deemed to have small risks of CARA contamination or are beyond the
3791 development review system's ability to control.

3792

3793 **16C.09.02 Mapping**

3794 1) **Mapping Methodology** – The CARA are depicted in the map titled “Critical Aquifer
3795 Recharge Areas of Yakima County”. The CARA map was developed through a geographic
3796 information system (GIS) analysis using the methodology outlined in the Washington
3797 Department of Ecology “Guidance Document for the Establishment of Critical Aquifer
3798 Recharge Area Ordinances” (Publication #97-30). Yakima County has determined this

3799 analysis to be the best available science at the time the analysis was conducted. This analysis
3800 was at a coarse, countywide scale, rather than a site specific assessment. The approximate
3801 location and extent of critical aquifer recharge areas are shown on the map, and are to be
3802 used as a guide for the county, project applicants and/or property owners, and may be
3803 updated as more detailed data becomes available. The CARA map estimates areas of
3804 moderate, high and extreme susceptibility to contamination, in addition to wellhead
3805 protection areas. To characterize hydrogeologic susceptibility of the recharge area to
3806 contamination, the GIS analysis used the following physical characteristics:

- 3807 a) Depth to ground water;
- 3808 b) Soil (texture, permeability, and contaminant attenuation properties);
- 3809 c) Geologic material permeability;
- 3810 d) Recharge (amount of water applied to the land surface, including precipitation and
3811 irrigation).

- 3812 2) **Wellhead Protection Areas** - The CARA map includes those Wellhead Protection Areas for
3813 which the County has maps. Wellhead Protection Areas are required for all Class A public
3814 water systems in the State of Washington. The determination of a wellhead protection area is
3815 based upon the time of travel of a water particle from its source to the well. Water purveyors
3816 collect site specific information to determine the susceptibility of the water source to surface
3817 sources of contamination. Water sources are ranked by the Washington State Department of
3818 Health with a high, moderate or low susceptibility to surface contamination. Wellhead
3819 protection areas are defined by the boundaries of the ten (10) year time of ground water
3820 travel, in accordance with WAC 246-290-135. For purposes of this chapter, all wellhead
3821 protection areas shall be considered highly susceptible.

3823 **16C.09.03 Protection Approach**

- 3824 1) Maps shall be used only as an informational resource to communicate with applicants on
3825 potential problems with meeting the applicable laws on a particular site. The maps indicate
3826 that high susceptibility areas tend to be located in the valley bottoms and follow along
3827 floodplain and stream corridors, with the extreme susceptibility locations being largely
3828 within floodplains, and along streams and wetlands.
- 3829 2) Land uses are subject to many existing, federal, state, local, or tribal laws regarding the
3830 handling of substances that may contaminate CARAs. Additional regulatory standards by
3831 Yakima County are not needed. Disclosure, educational information, and coordination of
3832 existing laws during existing review processes can accomplish the requirement to protect
3833 Critical Aquifer Recharge Areas. Consequently, Yakima County's protection of CARA shall
3834 be accomplished through normal project permit review under various Yakima County Codes,
3835 especially the stream protection standards in Chapter 16C.06 (Fish and Wildlife Habitat and
3836 the Stream Corridor System), including section 16C.06.10 (Prohibited Uses); the Shoreline
3837 Use Table in YCC Title 16D, section 16D.10.05 and YCC Title 13 (Building and
3838 Construction Code), which provides detailed construction, use, and fire/life-safety standards
3839 for the storage and handling of dangerous and hazardous substances to a greater extent than
3840 most existing state and federal laws.
- 3841 3) The Administrative Official shall develop and maintain a list of the relevant laws noted
3842 above. This list shall be informational, and is intended to be used in coordination with
3843 development permit review. This list shall be periodically reviewed and updated so as to

3844 provide the most comprehensive list possible to inform project applicants of the requirements
3845 of other agencies.

3846 4) The Administrative Official shall also develop and maintain a table of land uses with the
3847 potential of being subject to the relevant laws noted above. The table shall be generated and
3848 maintained using the intent stated in 16C.09.01(4) (Purpose and Intent).

3849 5) The Administrative Official and Building Official shall cooperatively develop questionnaires,
3850 to be filled out by new development permit applicants, which comprehensively establish the
3851 potential use, storage, and handling methods within the project for substances that have the
3852 potential to contaminate groundwater. The questionnaires are intended to ensure full
3853 application of existing building and construction codes related to such substances in order to
3854 forestall new regulations.

3855 6) The Administrative Official and Building Official shall develop technical assistance and
3856 information materials to assist landowners and developers with understanding and meeting
3857 relevant existing federal, state, and local laws relating to CARAs.

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

The following stream reaches within Yakima County are designated critical areas under the Critical Areas Ordinance.

1. BACHELOR CREEK: From source at Ahtanum Creek (SEC13-TWP12N-RGE16 EWM) downstream to its mouth at Ahtanum Creek (SEC1-TWP12N-RGE18E).
2. COTTONWOOD CANYON CREEK: From the south line of SEC32-TWP13N-RGE17E, downstream to mouth at Wide Hollow Creek (SEC36-TWP13N-RGE17E).
3. COTTONWOOD CREEK (WENAS): From boundary of the L.T. Murray Wildlife Recreation Area (South line, SEC35-TWP15N-RGE18E) downstream to mouth at Wenas Creek (SEC12-TWP14N-RGE18E).
4. COWICHE CREEK, NORTH FORK: Commencing at the north line of SEC36-TWP14N-RGE15E, downstream to its confluence with the South Fork of Cowiche Creek (SEC3-TWP13N-RGE17E).
5. HATTON CREEK: From its source at Ahtanum Creek (SEC18-TWP12N-RGE17) downstream to its confluence with Ahtanum Creek (SEC8-TWP12N-RGE18E).
6. LITTLE RATTLESNAKE CREEK: From the Wenatchee National Forest boundary (SEC30-TWP15N-RGE15E) downstream to mouth at Rattlesnake Creek (SEC3-TWP15N-RGE15N).
7. WIDE HOLLOW CREEK: From the east line of the SW1/4 of the NW1/4 (SEC28-TWP13N-RGE17E) downstream to the municipal boundary for the City of Yakima (SEC34-TWP13N-RGE18E).
8. WENAS CREEK: From the east line of SEC5-TWP14N-RGE18E downstream to its mouth at the Yakima River (SEC18-TWP14N-RGE19E).

528 **Exhibit B – Approved Edits to Existing Critical Areas Comprehensive Plan 2015 Goals &**
529 **Policies**

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Approved Edits to Existing Critical Areas Comprehensive Plan 2015 Goals & Policies

Yakima County Comprehensive Plan 2015 - Natural Setting Section

CRITICAL AREAS

PURPOSE STATEMENT 8

Critical Areas are an important part of the natural setting in Yakima County. Their protection is required by the Growth Management Act and important to the quality of life of the residents of this county. Critical Areas include groundwater, fish and wildlife habitat (which includes surface waters), wetlands, frequently flooded areas, and geologic hazards. The protection of critical areas must include certain general approaches, which are provided for in the goals and policies below.

Goal NS 8: Establish critical areas protection measures to protect environmentally sensitive areas, and protect people and property from hazards.

GENERAL POLICIES

NS 8.1 Use the best available science in a reasonable manner to develop regulations to protect the functions and values of critical areas.

NS 8.2 Ensure proposed subdivisions, other development, and associated infrastructure are designed at a density, level of site coverage, and occupancy to preserve the structure, values and functions of the natural environment or to safeguard the public from hazards to health and safety.

NS 8.3 Use a preference-based system of mitigation sequencing for the County's stream, lake, pond, wetland, floodplain, and fish and wildlife habitat critical areas that reduces impacts using approaches ranging from avoidance to replacement.

NS 8.4 In order to encourage Critical Area protection and restoration, the density and lot size limits stipulated in other policies may be adjusted or exceeded to accomplish clustering and bonus provisions adopted under the CAO. The use of incentive based programs is encouraged.

WATER QUALITY AND QUANTITY

Groundwater and Critical Aquifer Recharge Areas (CARAs)

PURPOSE STATEMENT NS 89

Groundwater is the primary source of drinking water for most rural County residents. The City of Yakima is the only city within Yakima County that uses surface water as a primary source (Naches River). All other jurisdictions currently use groundwater (wells) as their primary source of water. Once groundwater is contaminated it is difficult, costly, and often impossible to clean up. Some contaminants like microbial organisms can cause sickness and discomfort while others like organic chemicals, inorganic metals, and radio-nuclides can cause neurological disorders, cancer, mutations and death.

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47
48 Wells provide a potential source of contamination of both the shallow and deeper aquifers. The
49 proliferation of individual domestic and irrigation wells increases the risk that contamination
50 may find its way into the groundwater. Although the quality of groundwater resources used for
51 drinking water in Yakima County is generally good, the potential for problems exists because
52 many wells tap shallow aquifers (less than 100 feet) which are extremely susceptible to surface
53 contamination. The following goal and policies address these concerns by encouraging the
54 identification of aquifers and taking steps to reduce potential contamination.

55
56 | **GOAL NS 89:** Maintain and manage the quality of the groundwater resources in Yakima
57 County as near as possible to their natural conditions and in compliance with state
58 water quality standards.

59 **POLICIES:**

60 | **NS 89.1** Identify and map important aquifers, critical aquifer recharge areas, and surface
61 waters.

62
63 | **NS 89.2** Develop performance standards and regulate ~~uses for~~ activities which adversely
64 impact water quantity and quality in aquifers, wetlands, watersheds and surface
65 waters.

66
67 | **NS 89.3** Evaluate the potential impact of development proposals on groundwater quality, and
68 require alternative site designs to reduce contaminant loading where site conditions
69 indicate that the proposed action ~~will~~ measurably degrade groundwater quality.

70
71 | **NS 89.4** Continue data collection and ~~evaluation~~ efforts to better understand the County's
72 groundwater system and its vulnerability to contamination.

73
74 | **NS 89.5** Encourage the retention of natural open spaces in development proposals overlying
75 areas highly susceptible to contaminating groundwater resources.

76
77 | **NS 89.6** Conduct and support educational efforts which inform County citizens of measures
78 they can take to reduce contaminant loading of groundwater systems.

79
80 | **NS 89.7** Encourage development and expansion of community public water systems to lessen
81 the reliance on individual wells.

82
83 | **NS 89.8** Ensure that abandoned wells are closed properly.

84
85 | **NS 89.9** Ensure sufficient water quantity exists to support land use activities.

86 **Surface Water**

87 | **PURPOSE STATEMENT NS 9, 10, & 11 & 12**

88 The Yakima River and its many tributaries are perhaps the most dynamic and used natural
89 features in Yakima County. Throughout its 200-mile course, water from the Yakima is

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93 withdrawn to feed agricultural operations that drive our economy. Irrigation and other water
94 uses developed both inside and outside the Yakima Irrigation Project, developed under the 1903
95 Reclamation Act, are relatively unique in that all of the water for irrigation is generated, stored
96 and distributed in the Valley. The tributaries, the Naches River and the Yakima River are used
97 as the conduit for the water distributions system in the Valley. The Yakima River is used as the
98 trunk of the water distributions system, is the most important component of the Yakima Project,
99 and probably is the most important piece of infrastructure in the Valley. Agriculture, industry,
100 recreation and the Cities within the basin are dependent on this distribution system for water
101 supply for domestic, industrial, agricultural and residential uses. The demands of this economy
102 are continuing to increase, while existing operations return flows of a far lesser quality. The
103 combined historic actions of over withdrawal, pollution and vegetation removal have produced a
104 waterway that exits Yakima County completely altered from the condition in which it begins
105 near Snoqualmie Pass. To deal with the situation, efforts by many parties have been made to
106 improve stream corridors within the County, especially in the areas of water quality and habitat.
107 The following goals and policies address actions and attitudes that should guide decisions related
108 to surface water.

109
110 | **GOAL NS 910:** Enhance the quantity and quality of surface water.

111
112 | **POLICIES:**

113 | NS 109.1 Improve water conservation through education and incentives.

114
115 | NS 109.2 Protect water quality from the adverse impacts associated with erosion and
116 sedimentation.

117
118 | NS 109.3 Encourage the use of drainage, erosion and sediment control practices for all
119 construction or development activities.

120
121 | **GOAL NS 1011:** Identify future needs and promote increased water supplies through
122 coordinated development and conservation efforts.

123 | **POLICY:**

124 | NS 1011.1 Support local and regional cooperative efforts which help to accomplish this goal.

125
126 | **GOAL NS 1112:** Restore, maintain or enhance the quality of the Yakima River Basin's surface
127 water.

128 | **POLICIES:**

129 | NS 1112.1 Maintain local control over water quality planning by: 1) providing guidance to state
130 and federal agencies regarding water quality issues, priorities and needs; and 2)
131 demonstrating progress in accomplishing the goals and objectives of the Yakima
132 River Basin locally developed Water Quality Plans, thereby pre-empting
133 externally-imposed solutions to water quality problems as much as possible.

134 | NS 1112.2 Make use of local and regional data sources to assess water quality progress.

135
136 | NS 1112.3 Participate in water quality improvement planning and implementation efforts by
137 local, regional, state, federal, and tribal agencies, as well as coalitions such as the
138 Yakima River local Watershed Council planning efforts.

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139

140 | **Flood Hazards and Stormwater**

141

142 | **PURPOSE STATEMENT NS 12-13 and 14**

143 While stormwater management may be of less concern in Yakima County than in areas that
144 receive more precipitation, localized flooding does occur in certain areas, such as Wide Hollow
145 Creek, Ahtanum Creek, and Cowiche Creek. If the amount of impervious area in a watershed
146 increases, and provisions are not made for retaining stormwater on-site, up-watershed areas can
147 contribute to the flooding hazards of their down-stream neighbors, and flooding becomes more
148 frequent and more severe. If the natural drainage courses are obstructed with fill material,
149 buildings, or roads that lack adequately-sized culverts, storm water can cause localized flooding,
150 with property damage and disruption of services.

151

152 ~~The Yakima area may soon be subject to state and federal water quality requirements for control~~
153 ~~of urban runoff. The Yakima Urban Area Storm Water Management Plan has identified various~~
154 ~~actions that are needed for either stormwater control, water quality improvement, or both. The~~
155 ~~County was recommended as the lead agency for implementing that storm drainage plan, and has~~
156 ~~tentatively accepted that role. Yakima County is subject to state and federal water quality and~~
157 ~~Underground Injection Control (UIC) regulations. Some Urban Areas within Yakima County~~
158 ~~are also subject to state and federal stormwater regulations.~~

159

160 | **GOAL NS 1213:** Prevent increased flooding from stormwater runoff.

161

162 | **POLICIES:**

163 | **NS 1213.1** Require on-site retention of stormwater.

164

165 | **NS 1213.2** Preserve natural drainage courses.

166

167 | **NS 1213.3** Minimize adverse storm water impacts generated by the removal of vegetation and
168 alteration of land forms.

169

170 | **GOAL NS 1314:** Improve water quality through improved stormwater management.

171

172 | **POLICIES:**

173 | **NS 1314.1** Review the recommendations of ~~locally adopted~~ ~~the Yakima Urban Area~~ ~~Stormwater~~
174 ~~Management Plans~~, and develop a realistic implementation schedule.

175

176 | **NS 1314.2** Control stormwater in a manner that has positive or neutral impacts on the quality of
177 both surface and groundwater, and does not sacrifice one for the other.

178

179 | **FISH AND WILDLIFE HABITAT, WETLANDS, AND FREQUENTLY FLOODED** 180 **AREAS**

181

182 | **PURPOSE STATEMENT NS 15, 16, 17 and 18**

183 Yakima County contains some of the most diverse and unique fish and wildlife habitat found
184 anywhere in the country. These environments provide places where animals can find food,

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185 water, shelter, and security, and act as gene pools to assure continued genetic diversity. The
186 following goal and supporting policies encourage the protection of fish and wildlife habitat in
187 order to protect the environment for multiple uses. While fish and wildlife habitat includes
188 upland habitat, state administrative code (WAC 365-190-080(5)) focuses on habitat that is
189 related to water.

190
191 Stream corridors, lakes, ponds, wetlands, flood plains and other areas subject to flooding perform
192 important hydrologic functions including storing and slowly releasing flood waters, reducing
193 floodwater velocities, and settling and filtering of sediment and nutrients, shading surface waters,
194 and other functions. Frequently flooded ~~These areas also~~ provide natural areas for wildlife and
195 fisheries habitat, recreation areas and rich agricultural lands. Development in frequently flooded
196 these areas diminishes ~~these~~ their functions and values and can present a risk to persons and
197 property on the development site and/or downstream from the development. Building in
198 frequently flooded areas also results in high costs for installing flood protection measures to
199 protect life and property and to repair flood damages. The following goal and policies seek to
200 reduce these hazards through comprehensive flood control planning, directing facility
201 development away from these areas, and developing site development standards for flood hazard
202 areas.

203
204 Wetlands are an economically, biologically, and physically valuable resource. They are the most
205 biologically productive ecosystems in nature, even though they constitute only a small
206 percentage of the total landscape. They provide ~~important~~ nursery and spawning areas, which in
207 turn support a strong commercial and recreational industry. ~~Under proper management, forested~~
208 ~~wetlands are an important source of timber. They~~ Wetlands also play an important function in
209 local and regional hydrologic cycles.

210
211 The following goals and policies work toward preserving, protecting and managing fish and
212 wildlife habitat and wetlands by adopting boundaries, and a data system to track ~~wetland~~s~~them~~,
213 and establishing development regulations ~~to~~ for ~~their protection~~them. These goals and policies
214 also seek to reduce the hazards ~~and~~ impacts of development through comprehensive flood
215 control planning, directing facility development away from these areas, and developing site
216 development standards.

217 | **FISH AND WILDLIFE HABITAT**

218 | **GOAL NS 1715:** Provide for the maintenance and protection of habitat areas for fish and
219 ~~wildlife.~~

220 | **POLICIES:**

221 | **NS 1715.1** Encourage the protection of fish and wildlife habitat from a region- wide perspective
222 to ensure that the best representation and distribution of habitats remains to protect the
223 natural values and functions of those habitats. Fish and wildlife habitat protection
224 considerations should include:

225 1. The physical and hydrological connections between different habitat types to
226 prevent isolation of those habitats;
227 2. Diversity of habitat types both on a local and regional scale;

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231 3. Large tracts of fish and wildlife habitat;
232 4. Areas of high species diversity;
233 5. Locally or regionally unique and rare habitats; and
234 6. Winter range and migratory bird habitat of seasonal importance.
235

236 | **NS 1715.2** Direct development away from areas containing significant fish and wildlife habitat areas, especially areas which are currently undeveloped or are primarily dominated by low intensity types of land uses such as forestry.

240 | **NS 1715.3** Encourage the retention of sustainable natural resource based industries such as forestry and agriculture in order to protect important fish and wildlife habitat.

243 | **NS 1715.4** Coordinate fish and wildlife protection efforts with state and federal agencies and the Yakama Indian Nation to:

1. Avoid duplication of effort;
2. Ensure consistency in protecting fish and wildlife habitat which crosses political boundaries;
3. Facilitate information exchanges concerning development proposals which may impact fish and wildlife habitat; and
4. Take advantage of any available financial, technical, and project review assistance.

253 | **NS 17.5** Limit development projects or require mitigation measures in areas adjacent to public lands containing significant fish and wildlife habitat.

256 | **NS 1715.65** Protect the habitat of Washington State Listed Species of Concern and Priority Habitats and Species in order to maintain their populations within Yakima County.

259 | **NS 1715.76** Work with the resource agencies to prioritize habitats and provide appropriate measures to protect them according to their relative values.

262 | **GOAL NS 1416:** Conserve, Protect and enhance the hydrologic functions and values of natural systems- stream corridors to store and slowly release floodwaters, reduce flood velocities, and filter sediment provide for natural functions and protect hydrologic connections between features.

267 | **POLICIES:**

268 | **NS 1416.1** Flood control measures Development projects should not be authorized if they obstruct fish passage or result in the unmitigated loss or damage of fish and wildlife resources.

272 | **NS 1416.2** Encourage and support the retention of natural open spaces or land uses which maintain hydrologic functions and are at low risk to property damage from floodwaters within frequently flooded areas.

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276 | **NS 16.3** Protect public and private properties by limiting development within hazardous areas
277 | of the stream corridor.

278 |
279 | **NS 16.4** Give special consideration to conservation and protection measures necessary to
280 | preserve or enhance anadromous fisheries.

281 |
282 | **NS 16.5** Establish a system of vegetative buffers landward from the ordinary high water mark
283 | of streams, lakes and ponds and the edge of wetlands.

284 | **Frequently Flooded Areas**

285 |
286 | **GOAL NS 1517:** Prevent the loss of life or property and minimize public and private costs
287 | associated with repairing or preventing flood damages from development in
288 | frequently flooded areas.

289 | **POLICIES:**

290 | | **NS 1517.1** Support comprehensive flood control planning.

291 | | **NS 1517.2** Yakima County should conduct additional analysis and mapping of frequently
292 | flooded areas in cases where the 100-year floodplain maps prepared by the Federal
293 | Emergency Management Agency do not adequately reflect the levels of risk or the
294 | geographic extent of flooding.

295 | | **NS 1517.3** Direct new critical facility development away from areas subject to catastrophic, life-
296 | threatening flood hazards where the hazards cannot be mitigated.

297 | | **NS 1517.4** Where the effects of flood hazards can be mitigated require appropriate standards for
298 | subdivisions, parcel reconfigurations, site developments and for the design of
299 | structures. {Amended 12/98}

300 | | **NS 17.8** Plan for and facilitate returning Shoreline rivers to more natural hydrological
301 | conditions, and recognize that seasonal flooding is an essential natural process.

302 | | **NS 17.9** When evaluating alternate flood control measures on Shoreline rivers:
303 | | 1) consider the removal or relocation of structures in the FEMA 100-year floodplain;
304 | | 2) where feasible, give preference to nonstructural flood hazard reduction measures over
305 | | structural measures;
306 | | 3) structural flood hazard reduction measures should be consistent with the County's
307 | | comprehensive flood hazard management plan.

308 | **Wetlands**

309 | | **GOAL NS 18:** Provide for long-term protection and no net loss of wetland functions and values.

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319

320 **POLICIES:**

321 **NS 18.1** Preserve, protect, manage, and regulate wetlands for purposes of promoting public
322 health, safety and general welfare by:

- 323 1. Conserving fish, wildlife, and other natural resources of Yakima County;
- 324 2. Regulating property use and development to maintain the natural and economic
325 benefits provided by wetlands, consistent with the general welfare of the County;
- 326 3. Protecting private property rights consistent with the public interest; and
- 327 4. Require wetland buffers and building setbacks around regulated wetlands to
328 preserve vital wetland functions and values.

329

330 **NS 18.2** Adopt a clear definition of a regulated wetland and a method for delineating
331 regulatory wetland boundaries.

332

333 **NS 18.3** Classify regulated wetland areas to reflect their relative function, value and
334 uniqueness.

335

336 **NS 18.4** Develop a wetlands database.

337

338 | **NS 18.5** Manage and mitigate human activities or actions which would have probably
339 adverse impacts on the existing conditions of regulated wetlands or their buffers.

340

341 | **NS 18.6** Require mitigation for any regulated activity which alters regulated wetlands and
342 their buffers. Develop ratios, performance standards, monitoring, and long-term
343 protection.

344

345 **GEOLOGIC HAZARDS**

346

347 | **PURPOSE STATEMENT NS 1619**

348 Geologic hazards pose a threat to the health and safety of County citizens when incompatible
349 commercial, residential, or industrial development and associated infrastructure is sited in areas
350 of significant hazard. The following goal and policies address the risk associated with these
351 areas by encouraging engineering designs or modified construction practices that will mitigate
352 problems, and prohibiting building where problems cannot be mitigated.

353

354 | **GOAL NS 1619:** Protect the public from personal injury, loss of life or property damage from
355 geologic hazards.

356

357 **POLICIES:**

358 | **NS 1619.1:** Ensure that land use practices in geologically hazardous areas do not cause or
359 exacerbate natural processes which endanger lives, property, or resources.

360

361 | **NS 1619.2** Locate development within the most environmentally suitable and naturally stable
362 portions of the site.

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364 | NS 1619.3 Classify and designate areas on which development should be prohibited, conditioned, or otherwise controlled because of danger from geological hazards.

365

366

367 | NS 1619.4 Prevent the subdividing of known or suspected landslide hazard areas, side slopes of stream ravines, or slopes 40 percent or greater for development purposes.

368

369

