

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 6) Page 13, Section 16A.02.200 (Fill), line 525, strike the term “rubble”. The Board removes this undefined term to avoid confusion.
- 7) Page 15, Section 16A.02.275 (Lake or Pond) line 629, insert the following sentence after “dam”, “but excludes a man-made body of water created for surface mining purposes.”. The Board inserts this language to insure man-made ponds created from surface mining are not designated as critical areas.
- 8) Page 18, Section 16A.02.321 (Qualified Professional), lines 740-744, delete existing and proposed text and edit to read as follows:
"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.

- 22) Page 35, Section 16A.03.07 (17)(iv) Exemptions for Hydrologically Related Critical Areas, and Wetlands), lines 1485-1486, strike the phrase “with one (1) new tree with a minimum caliper of 1.5 inches, or other replanting plan” and insert “in a manner”. For items 20), 21) and 22), the Board finds that the edits significantly simplify the exemption criteria and allow the Administrative Official more flexibility in decision making.
- 23) Page 42, Section 16A.03.17(2) (Critical Areas Report Requirements), line 1790, strike the phrase “consistent with” and insert “utilizing”. The Board finds that the term more accurately describes the process.
- 24) Page 43 Section 16A.03.17(7) (Critical Areas Report Requirements), line 1831, strike “inaccurate,”. The Board finds the term inappropriate.
- 25) Page 47, Section 16A.03.18(3)(c)(i) (Critical Areas Report Requirements), line 1996, strike the phrase “the accuracy of the report and”. The Board finds this phrase to be inappropriate.
- 26) Page 53, Section 16A.03.23, lines 2292-2294, strike the sentence “That the adjustment would provide greater convenience, would reduce inconvenience, or would provide increased profitability does not constitute a hardship.” The Board finds this standard overly burdensome.
- 27) Page 61, Section 16A.03.27(3)(c) (Subdivision Standards), line 2635-2638, strike subsection (3)(c) in its entirety. The Board finds this standard to be inappropriate and burdensome.
- 28) Page 83, Section 16A.06.04(2)(Upland Wildlife Habitat and Habitats of Local Importance). The Board accepts the PC recommendation to process the Upper Wenas Valley as a Habitat of Local Importance after the adoption of the CAO and directs staff to begin such review as soon as possible. The Board has reviewed the exhibits and testimony regarding the Upper Wenas Valley and finds that, until such time as a Habitat of Local Importance is established, the existing low density zoning of Rural/Remote (40 acres) and Forest Watershed (80 acres) is adequate protection. The Board further finds that the **Plan 2015**, Volume 2, Chapter IV, page 5, statement that “upland game habitat and geologically hazardous slopes and aquifer recharge areas, are effectively addressed by the Preferred Land Use scenario discussed in **Plan 2015**’s Land Use Element” continues to be an accurate statement for protecting upland game habitat in combination with the existing or updated critical areas ordinance. The Board accepts/supports the protection approach outlined in Section 16A.06.02 of the CAO for the protection of wildlife habitat in Yakima County.

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

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

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

- 29) Page 84, Section 16A.06.04(2)(b) (Upland Wildlife Habitat and Habitats of Local Importance), line 3553, strike “shall” and insert “should”. The Board finds the edit to add more flexibility to the process.
- 30) Page 84, Section 16A.06.04(2)(b)(iv) (Upland Wildlife Habitat and Habitats of Local Importance), lines 3558-3566, strike subsection (2)(b)(iv) in its entirety. The Board finds the WDFW PHS criteria inappropriate and burdensome.
- 31) Page 87, Section 16A.06.06(5) (Stream, Lake and Pond Typing System), lines 3712-3714, strike the phrase “as streams, but may be protected under geologically hazardous areas, floodplain, stormwater, construction, grading or other development regulations”. The Board accepts the PC recommendation, based on BAS and a review of the GMA and WAC 365-190-080(5) that Type 5 streams do not constitute fish and wildlife habitat conservation areas, but may be regulated as other critical areas or other regulations. The Board finds that the deleted text reference is unnecessary, since those regulations are in effect by this title or other Yakima County codes.
- 32) Page 91, Section 16A.06.10(6) (Prohibited Uses), line 3887, strike the word “sewer” and insert “wastewater”. The Board finds “wastewater” to be a more appropriate term.
- 33) Page 95, Section 16A.06.12 (Use Classifications), line 4040, at the end of the sentence, insert the phrase “except for those activities listed in Section 16A.03.05 (Minor Activities Allowed without a Permit or Exemption)”. During deliberations, the Board discussed the possible need to define the term “use area” used in sections 16A.06.13 through 16A.06.15. The deliberation was in relation to what uses were, or were not, allowed within a buffer. Since the term “use” is already defined (16A.02.400) and Section 16A.03.05 lists uses or activities that are allowed within a buffer, the board finds that a reference to Section 16A.03.05 is a better solution, which is less problematic than creating a new definition.
- 34) Page 94, Section 16A.06.12(1)(b) (Use Classifications), line 4054, strike the word “sewage” and insert “wastewater”. The Board finds “wastewater” to be a more appropriate term.
- 35) Page 94, Section 16A.06.14 (Water-related Uses), line 4089, delete the word “the”, as a grammatical edit.
- 36) Page 100, 16A.06.16, Table 4-2 (Vegetative Buffers, will be updated to table 6-2), reject the PC recommended wetland buffer widths and retain the existing wetland buffer widths from existing table 4-2 on page 96 except for editing the Type IV wetland buffers to 50’/(25’) (Std./Min.). The Board has considered the Best Available Science (BAS) and finds that there has been no evidence or testimony that any significant environmental

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

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

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

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

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

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

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

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

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

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

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

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

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

45) Page 107, Section 16A.07.02(1)(A and B), lines 4452-4460:

- Line 4452, strike "a location of";
- Line 4454, insert a period "." after "artificial wetland", strike the remainder of the paragraph;
- lines 4459-4460, strike subsection (1)(B) in its entirety.

The Board finds that the existing guidance language, as edited here, is more appropriate than the proposed guidance language.

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

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

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

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

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

BE IT HEREBY ORDAINED:

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

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

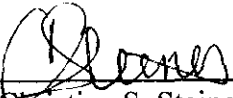
Section 3. Retention. To meet the requirements of Substitute Senate Bill 5248, the existing CAO, codified as YCC Title 16A shall be retained for the regulation of agricultural activities on designated agricultural and rural lands.

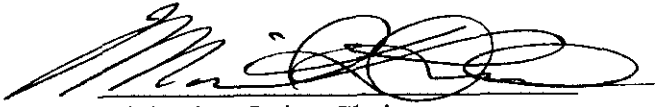
Section 4. Severability. If any section, sentence, clause, or phrase of the adopted new YCC Title 16C should be held to be invalid or unconstitutional by any body or court with authority and jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any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

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

Dated this _____ day of _____, 2007

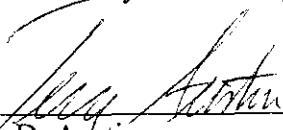
Attest:

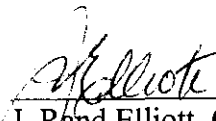
 12/18/07
Christina S. Steiner
Clerk of the Board


Michael D. Leita, Chairman

Approved as to form only:
Ronald S. Zirkle
Yakima County Prosecuting Attorney


Ronald F. Gamache, Commissioner

By: 
Terry D. Austin
Deputy Prosecuting Attorney


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

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

545 **Exhibit B – Approved Edits to Existing Critical Areas Comprehensive *Plan* 2015 Goals &**
546 **Policies**

TABLE OF CONTENTS

Chapter 16C.01 GENERAL PROVISIONS

Chapter 16C.02 DEFINITIONS

Chapter 16C.03 APPLICATION AND REVIEW PROCEDURES

Chapter 16C.04 ENFORCEMENT AND PENALTIES

Chapter 16C.05 FLOOD HAZARD AREAS

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

Chapter 16C.07 WETLANDS

Chapter 16C.08 GEOLOGICALLY HAZARDOUS AREAS

Chapter 16C.09 CRITICAL AQUIFER RECHARGE AREAS

Appendix A Designated Type 2 Stream Corridors

Chapter 16C.01
GENERAL PROVISIONS

Sections:

16C.01.01	Title and Authority
16C.01.02	Language Interpretation
16C.01.03	Purpose of Title
16C.01.04	Intent of Title
16C.01.05	Applicability
16C.01.06	Science and Protection of Anadromous Fish
16C.01.07	Administrative Authority
16C.01.08	Severability

16C.01.01 Title and Authority

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

16C.01.02 Language Interpretation

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

16C.01.03 Purpose of Title

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

16C.01.04 Intent of Title

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

- b) Prevent further degradation of critical areas;
 - c) Conserve, protect and, where feasible, restore essential or important natural resources.
 - d) Protect the public health, safety and general welfare;
 - e) Further the goals and objectives of the Yakima County Comprehensive Plan and all of its elements;
 - f) Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A), and the National Flood Insurance Program;
 - g) Recognize and protect private property rights;
 - h) Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of Adjustment, Reasonable Use provisions and Non-Conforming Use and Facility provisions;
 - i) Recognized that mining and related uses are an appropriate use within designated critical areas when conducted in a manner consistent with the laws of the state that already govern mining including, but not limited to, the Surface Mining Act, RCW 78.44.
- 2) In addition, the policies, standards and procedures of this title:
- a) Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective dates of provisions in the Critical Areas Ordinance;
 - b) Are not intended to result in an unconstitutional taking of private property;
 - c) Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance; but rather to utilize restoration as a tool to mitigate impacts of new development;
 - d) Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with non-regulatory tools in as balanced a manner as possible;
 - e) Are not intended to prohibit the use of valid water rights.

16C.01.05 Applicability

- 1) Except as provided in subsections (3) and (4) below, the provisions of this title shall apply to any new development, construction or use within the unincorporated portion of Yakima County designated as a critical area outside Shoreline jurisdiction, as determined by the Shoreline Master Program (YCC Title 16D), and upon any land mapped and designated as a special flood hazard area under the National Flood Insurance Program, however, this title does not apply to the situations below, except that the Flood Hazard protection provisions of Chapter 5 will continue to apply as determined by the applicability provision in 16C.05.20:
- a) Within critical areas designated by this title or amendments that may later be adopted, there may exist lots, structures and uses which were lawfully established before this title was initially adopted, amended or readopted, as provided below, but which would be subsequently prohibited, regulated or restricted under this ordinance. It is the intent of this title to permit these pre-existing legal non-conformities to continue without requirement to change said non-conformity until such time as conformance is required through permits for development in the future. The adoption and amendment dates of the relevant regulations are provided below;
 - i) Critical Areas Ordinance adopted July 12, 1994;
 - ii) Critical Areas Ordinance amended October 1, 1995;

- 115 iii) Flood Hazard Ordinance adopted June 5, 1985.
- 116 b) Critical areas on federally owned lands are not subject to this title;
- 117 c) Forest practices, as defined by this title, carried out under a Washington Department of
118 Natural Resources Forest Practice permit are not subject to this title, except those that
119 involve a conversion of forest land to a non-forestry use, involve a conversion option
120 harvest plan, or take place on lands platted after January 1, 1960;
- 121 d) Livestock grazing on publicly owned land, when carried out under an agreement that
122 includes a resource management plan that will be monitored by a public entity is not
123 subject to this title;
- 124 e) Changing agricultural crops within an existing farming operation is not considered new
125 development, construction or use, provided that the existing area under agricultural
126 production is not extended further into a vegetative buffer identified under 16C.06.16,
127 and provided that the natural contour of the land subject to this title is not altered by
128 excavation and filling;
- 129 f) Minor, temporary or transient activities, including those of a recreational nature, that do
130 not alter the environment or require a dedicated staging area, use area, or route are not
131 subject to this title, and including temporary signs (election, sale, rent, etc.);
- 132 g) Critical Areas within the exterior boundaries of the Yakama Nation that are located
133 within the designated Closed Areas or not under County jurisdiction as a result of the
134 Supreme Court decision COUNTY OF YAKIMA et. al. v. CONFEDERATED TRIBES
135 AND BANDS OF THE YAKIMA INDIAN NATION (1991) are not subject to this title;
- 136 h) Mining, as defined by this title, that is carried out under a Washington Department of
137 Natural Resources reclamation permit is not subject to, the geologically hazardous areas
138 provisions of this title for erosion hazard areas, oversteepened slope hazard areas,
139 landslide hazard areas and suspected geologic hazard areas. Other critical areas
140 provisions continue to apply.
- 141 2) Other rules and regulations, including the Yakima County Subdivision Ordinance (YCC 14),
142 the Yakima County Zoning Ordinance (YCC Title 15), the Yakima Urban Area Zoning
143 Ordinance (YCC Title 15A), Shoreline Master Program (YCC Title 16D), and the Building
144 and Construction Ordinance (YCC Title 13), shall remain in full force and effect as they
145 apply to a designated critical area. Wherever the requirements of Title 16C conflict with the
146 requirements of the applicable Zoning Ordinance, the Subdivision Ordinance or any other
147 lawfully adopted County rules or regulations, the most restrictive standards shall govern.
- 148 3) Due to the requirements of Substitute Senate Bill 5248, the provisions or standards of this
149 title shall not apply to agricultural activities in certain areas, as defined below. Such
150 agricultural activities are still subject to the requirements of YCC Title 16A as adopted
151 October 1, 1995.
- 152 a) "agricultural activities" means agricultural uses and practices currently existing or legally
153 allowed on rural land or agricultural land designated under RCW 36.70A.170 including,
154 but not limited to: Producing, breeding, or increasing agricultural products; rotating and
155 changing agricultural crops; allowing land used for agricultural activities to lie fallow in
156 which it is plowed and tilled but left unseeded; allowing land used for agricultural
157 activities to lie dormant as a result of adverse agricultural market conditions; allowing
158 land used for agricultural activities to lie dormant because the land is enrolled in a local,
159 state, or federal conservation program, or the land is subject to a conservation easement;
160 conducting agricultural operations; maintaining, repairing, and replacing agricultural

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

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

16C.01.06 Science and Protection of Anadromous Fish

This title has been updated consistent with the requirements for:

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

16C.01.08 Administrative Authority

- 1) The Yakima County Public Services Department - Planning Division shall be responsible for the general administration of this title. The Planning Division Manager or the Manager's designee shall serve as the Administrative Official of this title, except as noted in Chapters 16C.05.20 through 16C.05.72. The Administrative Official shall establish procedures for implementation of this title.
 - a) Where the provisions of these regulations may be unclear in special circumstances, or where judgment must be made because of the nature of the language used, the Administrative Official shall make such interpretations. A separate record of all interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the Administrative Official for its effect or influence on the pending action.
 - b) A written request for interpretation of any provision of this title, or any rule or regulation adopted pursuant to this title may be submitted to the Administrative Official. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. Interpretations shall be processed in accordance with YCC Title 16B.03.070.

16C.01.09 Severability

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

Chapter 16C.02
DEFINITIONS

16C.02.001 Definitions Generally

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

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

16C.02.005 Abutting

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

16C.02.010 Adjacent

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

16C.02.012 Administrative Official

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

16C.02.025 Alluvial fan

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

16C.02.030 Applicant

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

16C.02.035 Aquifer

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

16C.02.040 Critical Aquifer Recharge Area

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

16C.02.042 Bank

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

16C.02.043 Bankfull depth

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

16C.02.044 Base Flood

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

16C.02.045 Base Flood Elevation

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

16C.02.046 Basement

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

16C.02.055 Bed

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

16C.02.060 Bedrock

"Bedrock" means in-place solid rock.

16C.02.065 Berm

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

16C.02.067 Best Management Practices

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

16C.02.070 Bioengineering

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

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

16C.02.075 Breakwater

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

16C.02.080 Bulkhead

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

16C.02.085 Channel

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

16C.02.092 Chief Building Official

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

16C.02.095 Classification

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

16C.02.100 Clearing

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

16C.02.110 Compaction

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

16C.02.115 Confinement Feeding Operation

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

16C.02.120 Construction

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

16C.02.125 Designated

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

16C.02.130 Department

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

16C.02.135 Development

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

16C.02.140 Dike

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

16C.02.145 Dock

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

16C.02.150 Dredging

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

16C.02.160 Earth Material

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

16C.02.170 Enhance

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

16C.02.175 Ephemeral Stream

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

16C.02.180 Erosion

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

16C.02.190 Excavation

"Excavation" means the mechanical removal of earth material.

16C.02.200 Fill

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

16C.02.205 Flood

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

16C.02.206 Flood Hazard Permit

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

16C.02.207 Flood Insurance Rate Map

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

16C.02.208 Flood Insurance Study

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

16C.02.210 Floodplain

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

16C.02.215 Flood-prone

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

16C.02.216 Flood-proofing

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

16C.02.220 Floodway

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

16C.02.225 Floodway Fringe

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

16C.02.230 Forest Land

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

16C.02.240 Forest Practices

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

16C.02.250 Grade

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

16C.02.255 Grading

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

16C.02.260 Groundwater

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

16C.02.263 Hydrologically Related Critical Areas (HRCA)

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

16C.02.266 Hyporheic

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

16C.02.270 Intermittent Streams

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

16C.02.275 Lake or pond

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

16C.02.281 Lowest Floor

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

16C.02.282 Manufactured Home

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

16C.02.283 Manufactured Home Park or Subdivision

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

16C.02.284 Manufactured Home Park or Subdivision, Existing

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

16C.02.285 Minerals

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

16C.02.290 Mining

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

16C.02.295 Native

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

16C.02.300 Natural Conditions

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

16C.02.302 New Construction

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

16C.02.303 Nonconforming Structure

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

16C.02.304 Nonconforming Use

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

16C.02.305 Ordinary High Water Mark (OHWM)

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

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

16C.02.310 Perennial Stream

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

16C.02.320 Project Site

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

16C.02.321 Qualified Professional

"A qualified professional" shall meet the following criteria:

- (a) A qualified professional for wetlands must have a bachelors degree or higher in biology, ecology, soil science, botany, or a closely related field, and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.
- (b) A qualified professional for stream corridors and habitat conservation areas must have a bachelors degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years professional experience related to the subject species/habitat type.
- (c) A qualified professional for geologically hazardous areas and preparation of geo-technical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.
- (d) A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.
- (e) A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.
- (f) A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.
- (g) A qualified professional for economic studies must have a bachelors degree or higher in economics or business administration with 5 years of professional experience. The five year standard shall be waived for professionals with a PhD degree.
- (h) Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined to be acceptable to the Administrative Official.

16C.02.322 Recreation Vehicle

"Recreation vehicle" means a vehicle which is:

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

16C.02.325 Restore

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

16C.02.330 Revetment

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

16C.02.335 Riparian vegetation

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

16C.02.340 Riprap

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

16C.02.345 Scour

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

16C.02.355 Shoreline

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

16C.02.360 Shore Stabilization

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

16C.02.365 Slope

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

16C.02.366 Solid Waste

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

16C.02.367 Special Flood Hazard Areas

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

16C.02.368 Start of Construction

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

16C.02.370 Stream

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

16C.02.380 Stream Corridor

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

16C.02.390 Structure

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

16C.02.395 Substantial Improvement

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

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

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

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

16C.02.400 Use

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

16C.02.415 Vegetative Buffer or Buffer

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

16C.02.425 Wetland

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

16C.02.430 Wildlife

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

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		
773		Abbreviated Review Alternatives
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
780	16C.03.10	Mitigation requirements
781		
782		Review Process
783	16C.03.11	Application Submittal
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
787	16C.03.15	Conditional Approval of Development Authorization
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

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

- 2) Upon receipt of a critical area identification form and site plan, the Administrative Official will typically conduct a site examination to review critical area conditions on site. The Administrative Official shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner for the site examination during any proposal review, restoration, emergency action, or monitoring period.
- 3) The Administrative Official shall review available information pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal. If so, a more detailed critical area report shall be submitted in conformance with section 16C.03.17 (Critical Areas Reports) and section 16C.03.18 (Supplemental Report Requirements for Specific Critical Areas), except as provided below:
 - a) **No critical areas present.** If the Administrative Official is able to sufficiently determine that a critical area does not exist within or adjacent to the project area, then a critical area report is not required;
 - b) **Critical areas present, but no impact.** If the Administrative Official is able to determine the existence, location and type of critical area sufficiently to indicate that the project area is not within or adjacent to the critical area and that the proposed activity is unlikely to degrade the functions or values of the critical area, then the Administrative Official may waive the requirement for a critical area report. A summary of the determination shall be included in any staff report or decision on the permit or review;
 - c) **Critical areas may be affected by proposal.** If the project area is within or adjacent to a critical area or buffer the Administrative Official may waive the requirement for a critical areas report if:
 - i) The Administrative Official is sufficiently able to determine the existence, location and type of the critical area;
 - ii) The project is of a small scale or uncomplicated nature, such that a specialist is not needed to identify impacts and mitigation. Work within a wetland or stream channel would generally not meet this provision;
 - iii) The applicant agrees to provide mitigation that the Administrative Official deems adequate to mitigate for anticipated impacts. Restoration of degraded areas may serve as mitigation; and,
 - iv) A summary of the determination shall be included in any staff report or decision on the permit or review.
 - d) If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

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

16C.03.03 Pre-application Conference

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

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

16C.03.04 Technical Assistance Conference

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

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

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

Abbreviated Review Alternatives

16C.03.05 Minor Activities Allowed without a Permit 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;

g) Noxious weed control within vegetative buffers, if the criteria listed below are met.
Control methods not meeting these criteria may still apply for a restoration exemption, or other authorization as applicable:

- i) Hand removal/spraying of individual plants only;
- ii) No area wide vegetation removal/grubbing.

16C.03.06 Exemption--Procedural Requirements

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

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

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

- 4) Construction or practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, and/or alteration of the contour of the land by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
- 5) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause additional substantial adverse effects to the environment. The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair. Replacement of non-conforming uses or facilities may also be subject to section 16C.03.26 (Non-conforming Uses and Facilities);
- 6) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat, which requires immediate action or response within a time period too brief to allow full compliance with this title. The following criteria must exist to qualify any action under an emergency provision:
 - a) There must be an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation arising from a natural condition or technical incident;
 - b) The emergency response must be confined to the action necessary to protect life or property from damage;
 - c) The scope of the emergency response must be limited to the work necessary to relieve the immediate threat;
 - d) The emergency response applies only to the period of time in which the actual emergency exists;
 - e) The request must be accompanied by a paid permit application or a request for a non-emergency exemption. Submittal requirements beyond normal exemption submittal requirements are waived until after the emergency is deemed abated. As soon as the emergency is deemed abated by appropriate authorities, compliance with the

- requirements of this title is required, and may include removal of the emergency construction if non-structural construction measures can adequately deal with site issues.
- 7) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee or contract purchaser of a single-family and multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be subject to a standard development permit;
 - 8) The operation, maintenance or construction of canals, waterways, drains, reservoirs, or other manmade facilities that now exist or are hereinafter created or developed as a part of an irrigation system;
 - 9) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on July 12, 1994, effective date of this Critical Areas Ordinance, for land not within Shoreline jurisdiction, which were created, developed, or utilized primarily as a part of an agricultural drainage and diking system;
 - 10) Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys;
 - 11) Any project with a certification from the governor pursuant to chapter 80.50 RCW (Energy facilities — site locations);
 - 12) Watershed restoration projects that are authorized by the sponsor of a watershed restoration plan and that implements the plan or a part of the plan;
 - 13) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - b) The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - 14) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020 (control of spartina and purple loosestrife), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW (SEPA);
 - 15) A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage:
 - a) The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;
 - b) The project has received hydraulic project approval, when required, by the department of fish and wildlife pursuant to chapter 75.20 RCW (Hydraulics Code);
 - c) The Administrative Official has determined that the project is consistent with this title;
 - d) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 (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

1190 **16C.03.08 Exemptions for Geologically Hazardous Areas**

1191 The following development activities are exempt from standard development permits that are
1192 required for Geologically Hazardous Areas designated in chapter 16C.08:

- 1193 a) Additions to or alteration of existing single family residences;
- 1194 b) Uses and surface disturbances (clearing and grubbing) that do not include excavation, fill
1195 or irrigation;
- 1196 c) Structures less than 200 square feet that are not used as a place of employment or
1197 residence (fences, sheds, gazebos, etc.);
- 1198 d) Oil, gas, wind or other exploration that does not include explosions, roads, excavation or
1199 fill.
- 1200

1201 **16C.03.09 Exemptions for Upland Wildlife Habitat and Habitats of Local Importance**

1202 The following development activities are exempt from standard development permits that are
1203 required for Upland Wildlife Habitat and Habitats of Local Importance designated in section
1204 16C.06.04:

- 1205 a) Agricultural and other uses that maintain the existing natural vegetation (rangeland
1206 grazing, stock fences, outdoor recreation, etc.);
- 1207 b) Any development and associated facilities with less than a ½ acre of disturbance area on
1208 existing lots;
- 1209 c) New driveways or roads less than ½ mile in length;
- 1210 d) Additions to or alteration of existing single family residences and associated facilities.

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

16C.03.10 Mitigation requirements

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

Review Process

16C.03.11 Application Submittal

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

- in YCC Title 16B (Project Permit Administration) or in chapter 16C.05.44 (Flood Hazard Protection Administration), as appropriate.
- 3) To be accepted as complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this title or requested on the basis of the pre-application conference (16C.03.03), or technical assistance conference (16C.03.04).

16C.03.12 Determination of Review Process

- 1) The Administrative Official shall determine from the application submittal, and other available information what type of permit or review is required under this title. The Administrative Official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing of any application needs. Available information used in this determination may include:
 - a) critical areas identification form;
 - b) pre-application conference information;
 - c) technical assistance conference information.
- 2) Specific information on when a permit or review is required, its review process type and review criteria are found in the section for each permit or review. However, a brief description of each type of permit or review is provided in Table 3-1 below. Some permits or reviews are general and all projects will have a general review. Some permits are more specialized and apply only in specific cases or situations. More than one (1) permit or review may be needed for a project.

Table 3-1

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

16C.03.13 Development Authorization – Review Procedure

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

- 1) Development authorizations shall be processed consistent with review procedures provided in YCC Title 16B (Project Permit Administration), and with any specific processes requirements provided in 16C.03.20 through 16C.03.26 (specific permit descriptions), including but not limited to:
 - a) submittals;
 - b) completeness review;
 - c) notices;
 - d) hearings;
 - e) decisions; and,
 - f) appeals.
- 2) Development authorizations shall be reviewed for conformance with the applicable development standards provided in 16C.03.27 (General Critical Areas Protection Measures), and in chapters 16C.06 through 16C.09, except that:
 - a) For rangeland livestock grazing operations, the Administrative Official may waive compliance with development standards in Chapter 16C.06 (Fish and Wildlife Habitat and the Stream Corridor), 16C.07 (wetlands), 16C.08 (Geologically Hazardous Areas), and 16C.09 (CARA), except for those uses and activities listed in section 16C.06.10 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be provided that has been prepared using all applicable US Department of Agriculture - National Resource Conservation Service best management practices designed to protect streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing operations. An acceptable Resource Management Plan is deemed to consist of acceptable critical areas protection measures capable of dealing with impacts of grazing activities dispersed across large areas. This provision is not intended to apply to pasture grazing, hobby farms, or confinement feeding operations.
- 3) Decisions on a development authorization shall be consistent with section 16C.03.14 (Authorization Decisions – Basis for Action), 16C.03.15 (Conditional Approval of Development Authorization) and with any specific decision criteria provided under the sections for each relevant permit type, as provided in 16C.03.20 through 16C.03.26 (specific permit descriptions).

16C.03.14 Authorization Decisions – Basis for Action

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

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

- 5) Requirements of other applicable local, state or federal permits or authorizations, including compliance with flood hazard mitigation requirements of Chapters 16C.05.20 through 16C.05.72;
- 6) Adequacy of the information provided by the applicant or available to the department;
- 7) Ability of the project to satisfy the purpose and intent of this title;
- 8) Based upon the project evaluation, the decision maker shall take one of the following actions:
 - a) Grant the development authorization;
 - b) Grant the development authorization with conditions, as provided in 16C.03.15 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or adjacent to the project site;
 - c) Deny the development authorization.
- 9) The decision by the Administrative Official on the development authorization shall include written findings and conclusions stating the reasons upon which the decision is based.

16C.03.15 Conditional Approval of Development Authorization

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

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

16C.03.16 Fees and Charges

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

Critical Areas Reports

16C.03.17 Critical Areas Report Requirements

- 1) The Administrative Official may require a critical areas report, paid for by the applicant in accordance with YCC Title 16B.04, where determined necessary through the critical area identification form, technical assistance conference, site investigation, or other portion of the project review.
- 2) A qualified professional, as defined by this title, shall prepare the report utilizing best available science. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.
- 3) The critical area report shall:
 - a) Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this title;
 - b) Describe all relevant aspects of the development proposal; all critical areas adversely affected by the proposal including any geologic or flood hazards; all risks to critical

- 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;

- c) An analysis of potential adverse critical area impacts associated with the proposed activity. For geologically hazard areas, also assess the risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
 - d) An explanation of how critical area impacts or risks will be avoided and/or minimized, how proposed mitigation measures will prevent or minimize hazards, why the proposed activity requires a location on or access across a critical area, the on-site design alternatives, and why alternatives are not feasible;
 - e) When impacts cannot be avoided, the report shall include a plan describing mitigation to replace critical area functions and values altered as a result of the proposal, or to reduce flood or geologic hazards to critical areas, the site, and other public and private properties. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the plan shall address mitigation for impacts to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
 - f) The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
 - g) Additional reasonable information requested by the Administrative Official for the assessment of critical areas impacts or otherwise required by the subsequent articles of this title.
- 11) A critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Administrative Official.
- 12) The Administrative Official may limit the required geographic area of the critical area report as appropriate.
- 13) Compensatory Mitigation Plans - When compensatory mitigation, as described in section 16C.03.10 (Mitigation Requirements) is required or proposed for wetland areas or stream channels, the applicant shall submit for approval by Yakima County a mitigation plan as part of the critical area report, which includes:
- a) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the proposed compensation including:
 - i) A description of the anticipated impacts to the critical areas, mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals and objectives, identification of desired resource functions, dates for beginning and completion of site compensation construction activities, and an analysis of the likelihood of success of the compensation project. The goals and objectives shall be related to the functions and values of the impacted critical area.
 - b) A review of the best available science supporting the proposed mitigation;
 - c) A description of the report author's experience to date in restoring or creating the type of critical area proposed;
 - d) Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained;

- 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;

- vi) The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel-by parcel regulations and/or traditional mitigation approaches;
- vii) The plan is consistent with the general purpose and intent of this chapter;
- viii) The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and
- ix) The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
- b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required wetland replacement ratios.
- c) Projects that propose compensatory wetland mitigation shall also use the standards in sections 16C.07.05 (Compensatory Mitigation Requirements). For those situations where a mitigation bank may provide an opportunity for mitigation, then the requirements in section 16C.07.06 (Wetland Mitigation Banks) shall apply.

16C.03.18 Supplemental Report Requirements for Specific Critical Areas

- 1) **Stream Corridors.** When a critical areas report is required for a stream corridor or hydrologically related critical area, it shall include the following:
 - a) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance the functional properties listed in section 16C.06.05 (Functional Properties);
 - b) Where there is evidence that proposed construction lies within an immediate zone of potential channel migration, representing a future hazard to the construction, a hydrologic analysis report may be required. The report shall assume the conditions of the one-hundred-year flood, include on-site investigative findings, and consider historical meander characteristics in addition to other pertinent facts and data.
- 2) **Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat and Habitats of Local Importance, it shall include the following:
 - a) **Habitat Assessment:** A habitat assessment is an investigation of the project area to evaluate the presence or absence of such species, and areas with which such species have a primary association. The presence or absence assessment shall incorporate the time sensitive nature of species use. The landowner may submit an assessment prepared by the state or federal agency with jurisdiction over the species. This assessment is time sensitive and the assessment must be completed no more than 36 months prior to the date the critical areas application is deemed complete.
 - b) If the habitat assessment determines that such habitat area is present on site, a management plan is required that follows published federal, or state, management recommendations. The Administrative Official shall confer with the appropriate agency and consider their comments through the review process.
- 3) **Wetlands** When a critical areas report is required for Wetlands, it shall include the following:
 - a) The exact location of a wetland's boundary and wetland rating shall be determined through the performance of a field investigation by a qualified wetland professional applying the *Washington State Wetlands Identification and Delineation Manual* (Ecology

- Publication #96-94 - <http://www.ecy.wa.gov/pubs/9694.pdf>) as required by RCW 36.70A.175 (Wetlands to be delineated in accordance with manual), and the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication # 04-06-15), as amended;
- b) All delineated wetlands and required buffers within two hundred (200) feet of the project area shall be depicted on the site plan. For areas off-site of the project site, wetland conditions within 200 feet of the project boundaries may be estimated using the best available information. Best available information should include, but not be limited to aerial photos, land based photos, soils maps, or topographic maps;
 - c) A critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information:
 - i) A statement specifying all assumptions made and relied upon;
 - ii) Documentation of any fieldwork performed on the site, including field data sheets for delineations, the wetland rating form, baseline hydrologic data, etc.;
 - iii) A description of the methodologies used to conduct the wetland delineations, or impact analyses including references;
 - iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;
 - d) For projects that will affect the wetland or it's buffer, provide the following:
 - i) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions and values listed in section 16C.07.04(1) (Wetland Functions and Rating), and section 16C.06.05 (Functional Properties);
 - ii) Mitigation sequencing pursuant to section 16C.03.10 (Mitigation Requirements) to avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of wetland functions and values. Mitigation ratios may be necessary and should follow the guidance provided in section 16C.07.05 (Compensatory Mitigation) of the wetland chapter.
- 4) **Geologically Hazardous Areas** When a critical areas report is required for a Geologically Hazardous Area, it shall include the following, provided that the Administrative Official may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:
- a) A description of the site features, including surface and subsurface geology. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;
 - b) A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any Suspected and Risk Unknown hazards identified in the affirmative determination of hazard (16C.08.04);
 - c) A description of the vulnerability of the site to seismic and other geologic processes and hazards;
 - d) A description of any potential hazards that could be created or exacerbated as a result of site development;
 - e) For developments in or affecting landslide hazard areas the report shall also include:
 - i) Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic

- 1603 earthquake loading, and shall use a minimum horizontal acceleration as established
1604 by the current version of the YCC Title 13 (Building Code);
- 1605 ii) An analysis of slope recession rate shall be presented in those cases where stability is
1606 impacted or influenced by stream meandering, or other forces acting on the toe of the
1607 slope;
- 1608 iii) Description of the run-out hazard of landslide debris to the proposed development
1609 that starts up-slope (whether part of the subject property or on a neighboring
1610 property) and/or the impacts of landslide run-out on down-slope properties and
1611 critical areas.

1612 5) **Flood Hazards**

- 1613 a) Prior to authorization of any major construction project within a floodplain which can be
1614 anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the
1615 base flood, an engineering report shall be prepared that establishes any new flood
1616 elevations that would result for the one-hundred-year flood frequency if the project were
1617 implemented.

1618
1619 **Permit Review Criteria**

1620
1621 **16C.03.20 Standard Development Permit**

- 1622 1) **Classification Criteria** – Standard Development permits include any development not
1623 subject to RCW Chapter 90.58 (Shoreline Management Act).
- 1624 2) **Process** Standard Development permits shall be processed as either a Type I or II permit at
1625 the judgment of the Administrative Official, in accordance with YCC Title 16B (Project
1626 Permit Administration). Applications that are of a significant size or scope shall be
1627 processed as a Type II review with public notice. Examples of such projects include those
1628 that typically require environmental review (SEPA), filling or excavating a stream channel or
1629 wetlands, involve large amounts of fill, require large amounts of parking, etc.
- 1630 3) **Decision Criteria** – Decisions on Standard Development permits shall be based on the
1631 general decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for
1632 Action).

1633
1634 **16C.03.23 Adjustment**

- 1635 1) **Classification Criteria** – For projects not required to be processed under RCW Chapter
1636 90.58 (Shoreline Management Act), the Administrative Official is authorized to
1637 administratively adjust the development standards specified herein. Existing structures,
1638 parcel size, property boundaries, and other constraints may preclude conformance with
1639 building setbacks, vegetative buffers, and other provisions of this chapter. Given such
1640 constraints, administrative adjustments may be authorized where the site plan and project
1641 design include measures which ensure the protection and performance of the functional
1642 properties identified in Section 16C.06.05 (Functional Properties). Adjustments of vegetative
1643 buffer standards listed in table 6-1 and 6-2 may be allowed down to the minimum buffer
1644 width listed. Reductions below the minimum may be considered but require that stricter
1645 criteria be met in sub-section 3(d) below. Adjustments from prohibited use limits are not
1646 allowed.
- 1647 2) **Process** – Requests for an Adjustment permit shall be processed as a Type II permit, in
1648 accordance with YCC Title 16B (Project Permit Administration). Requests for adjustments

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

- 3) **Decision Criteria** - Decisions on Adjustment permits shall be based on the general decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.
- a) A particular standard may be reduced or modified as long as the Administrative Official determines that the adjustment and/or reduction:
 - i) is consistent with the purpose of this title;
 - ii) is consistent with the intent of the standard; and,
 - iii) will not result in degradation of the critical area.
 - b) The Administrative Official shall consider the following:
 - i) The proximity and relationship of the project to any critical area and its impact on the critical area;
 - ii) The functions and values that the critical area performs;
 - iii) The overall intensity of the proposed use;
 - iv) The presence of threatened, endangered, or sensitive species;
 - v) The site's susceptibility to severe erosion;
 - vi) The use of a buffer averaging or buffer enhancement plan by the applicant which uses native vegetation or other measures which will enhance the functions and values of the Hydrologically Related Critical Area (HRCA).
 - c) When granting an adjustment to the provisions of this chapter, the Administrative Official may require alternative measures to be taken to protect the function and value of the HRCA. These alternative measures may include, but are not limited to, the following:
 - i) Restoration of impaired channels and banks to conditions which support natural stream flows, fish habitat, and other values;
 - ii) Restoration, enhancement, and preservation of soil characteristics and the quantity and variety of native vegetation;
 - iii) Provisions for erosion control and for the reduction and filtration of stormwater runoff to moderate the effects of the project on the stream channel and the available area of vegetation separating the project from the stream channel;
 - iv) Removal or alteration of existing manmade facilities associated with stream channels, or drainage ways which improve stream-flow characteristics or improve the movement or exchange of surface waters or floodwaters;
 - v) Replacement of lost wetlands or other stream corridor features on an acre-for-acre and equivalent value or at a higher acre and/or value basis;
 - vi) Conservation easements for key portions of stream corridor property and/or their inclusion within public or private conservation programs which provide for their long-term preservation and maintenance.
 - vii) Vegetative Buffer Averaging. Vegetative buffers may be modified by averaging buffer widths. Buffer averaging is preferred in the use of mitigation sequencing (16C.03.10 Mitigation Requirements), over a reduction in the buffer standards.
 - d) The following additional criteria must be met to reduce the critical areas stream and wetland buffers found in tables 6-1 and 6-2 below the minimum listed in the respective tables.
 - i) There is a hardship related to maintenance of the minimum buffer width that results from parcel boundaries or existing on-site development.

- 1695 ii) When warranted under (a) above, the buffer width shall be the maximum possible
1696 while meeting the minimum needs of the proposal.

1697
1698 **16C.03.24 Reasonable Use Exception**

- 1699 1) **Classification Criteria** - If the application of this title would deny all reasonable economic
1700 use of the subject property, the property owner may apply for a Reasonable Use Exception
1701 pursuant to this Section.
1702 2) **Process** - A Reasonable Use Exception shall be processed as a Type III review with a public
1703 hearing in accordance with YCC Title 16B.03 (Classification by Project Permit Type).
1704 3) **Decision Criteria** - Decisions on the Reasonable Use request shall be based on the general
1705 decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action),
1706 together with the criteria below. The Reasonable Use request shall be accompanied by the
1707 evidence necessary to demonstrate conformance with the criteria below. Failure to satisfy
1708 any one of the criteria shall result in denial of the request. The burden of proof shall be on
1709 the applicant to bring forth evidence in support of the application and to provide sufficient
1710 information on which any decision has to be made on the application.
1711 a) The application of this title would deny all reasonable use of the property; provided that
1712 the inability of the applicant to derive reasonable use of the property is not the result of
1713 actions by the applicant;
1714 b) No other reasonable use of the property has less impact on the critical area;
1715 c) Any alteration is the minimum necessary to allow for reasonable use of the property.

1716
1717 **16C.03.25 Minor Revisions to Approved Uses or Developments**

- 1718 1) **Classification Criteria** – Minor revisions to a project that has been approved under a permit
1719 are allowed in certain circumstances.
1720 a) Changes that are not substantive are not required to obtain a revision and may be allowed
1721 as activities to implement the original permit. Examples of such include minor changes
1722 in facility orientation or location, minor changes in structural design that does not change
1723 the height or increase ground floor area, and minor accessory structures (such as
1724 equipment covers or small sheds near the main structure, etc.).
1725 b) Substantive changes are those that materially alter the project in a manner that relates to
1726 its conformance with the permit requirements. Such changes may be approved as a
1727 minor revision, if the Administrative Official determines that the proposed revision and
1728 all previous revisions are within the scope and intent of the original permit, and meet the
1729 criteria listed below. Changes not able to meet the criteria must obtain a new permit.
1730 i) No additional over water construction will be involved, except that pier, dock, or float
1731 construction may be increased by five hundred square feet or ten percent from the
1732 provisions of the original permit, whichever is less;
1733 ii) Lot coverage and height may be increased a maximum of ten percent from the
1734 provisions of the original permit: PROVIDED, that revisions involving new
1735 structures not shown on the original site plan shall require a new permit, and:
1736 PROVIDED FURTHER, that any revisions authorized under this subsection shall not
1737 exceed height, lot coverage, setback or any other requirements of these regulations;
1738 iii) Landscaping may be added to a project without necessitating an application for a new
1739 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

1751 **16C.03.26 Non-Conforming Uses and Facilities**

1752 Non-Conforming Uses and Facilities are classified as either conforming uses with non-
1753 conforming structures or areas, or as non-conforming uses, as described in subsection 1 below.
1754 Both types have different review processes and decision criteria, as provided below in
1755 subsections 2 and 3.

- 1756 1) **Classification Criteria** – There may be situations that do not conform to the standards or
1757 regulations of this title. These situations are characterized as:
- 1758 a) **Non-conforming Uses.** Uses of a structure or land that were lawfully established at the
1759 time of their initiation but are currently prohibited by this title are non-conforming uses,
1760 and may utilize structures or land areas that are also non-conforming. A non-conforming
1761 use that is discontinued for any reason for more than one year shall have a presumption of
1762 intent to abandon, shall not be re-established, and shall lose its non-conforming status,
1763 unless an Adjustment (16C.03.23) is obtained to extend the length of time, based on
1764 documentation showing that an intent to abandon did not exist during the period of
1765 discontinuance. An Adjustment request may be submitted after the deadline has passed.
1766 In the case of destruction or damage where reconstruction costs exceed 50% of the
1767 assessed value, the structure shall not be rebuilt;
- 1768 b) **Conforming Uses with Non-conforming Structures or Areas** are structures or areas for
1769 conforming uses that were lawfully established at the time of their initiation, but currently
1770 do not conform to the bulk, dimensional or other development standards of this title.
1771 Structures or areas in locations approved under a permit shall not be considered non-
1772 conforming. Non-conforming outdoor areas that have not been used or maintained for 5
1773 consecutive years shall lose their non-conforming status and may not be reestablished;
- 1774 c) Any non-conforming structure, area, or use may be maintained with ordinary care
1775 according to the provisions in 16C.01.05 (Applicability) and 16C.03.05 (Minor Activities
1776 Allowed without a Permit or Exemption) and 16C.03.06 (Exemptions – Procedural
1777 Requirements), and do not require additional review under these non-conforming
1778 provisions.
- 1779 2) **Process**
- 1780 a) Alterations to conforming uses with non-conforming structures or areas shall be allowed
1781 under the following process requirements with the understanding that other permits or
1782 reviews may also be required under this title:
- 1783 i) Those that do not increase the existing non-conformity and otherwise conform to all
1784 other provisions of this title are allowed without additional review under these non-
1785 conforming provisions;

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

b) Alterations to Non-Conforming Uses

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

3) Decision Criteria

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

16C.03.27 General Critical Areas Protective Measures

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

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

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

- subject to compensatory mitigation for wetlands and streams, the applicant must post a financial guarantee to ensure mitigation is fully functional. Where financial guarantees are required by other state or federal agencies for specific mitigation features, additional financial guarantees for those features are not required under this provision.
- b) The financial guarantee shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.
 - c) The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the Administrative Official, with terms and conditions acceptable to the Yakima County attorney.
 - d) The financial guarantee shall remain in effect until the Administrative Official determines, in writing, that the standards bonded for have been met. Financial guarantees for wetland or stream compensatory mitigation shall be held for a minimum of five (5) years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
 - e) Public development proposals shall be relieved from having to comply with the bonding requirements of this Section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
 - f) Any failure to satisfy critical area requirements established by law or condition, including but not limited to the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan, shall constitute a default, and the Administrative Official may demand payment of any financial guarantees or require other action authorized by the Yakima County code or any other law.
 - g) Any funds recovered pursuant to this Section shall be used to complete the required mitigation. Such funds shall not be deposited in the County General Fund, but rather provided with a separate account. The County will use such funds to arrange for completion of the project or mitigation, and follow-up corrective actions.
 - h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
- 2) Declarative Covenants
- a) When a development is authorized by a critical areas permit or review, a declarative covenant shall, unless determined not to be necessary by the Administrative Official, be filed with the Yakima County Auditor to inform future owners of the existence of a critical areas decision that runs with the land and contains limits relating to critical areas on the property. The declarative covenant shall read substantially as follows:

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

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

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

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

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

- 16C.04.01 Enforcement Responsibilities Generally
16C.04.02 Enforcement Responsibilities – Chapters 16C.05.20 through 16C.05.72
Flood Hazard Permits
16C.04.03 Violation – Penalty

16C.04.01 Enforcement Responsibilities Generally

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

**16C.04.02 Enforcement Responsibilities – Chapter
Flood Hazard Permits**

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

16C.04.03 Penalties

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

1976 ordered abated in a civil proceeding for injunction or for abatement. For purposes of 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 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

proposed project shall be submitted to the department for approval.

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

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

(1) The alteration or substantial improvement of any structure listed on the National Register of Historic Places or a state inventory of historic places;

(2) The installation and maintenance of aboveground utility transmission lines and poles;

(3) Private driveways, fences and other accessory activities and/or uses necessary for agricultural uses which the building official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse;

(4) Construction and practices normal or necessary for agricultural uses. The construction of an accessory barn or similar agricultural structure, designed to have a low flood-damage potential, not involving substantial cutting, filling, or watercourse modification, is subject to Section 16C.05.28.020(3)(a through e). (Ref. IRC 323)

16C.05.20.070 Interpretations

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

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

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

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

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

16C.05.28 FLOOD HAZARD PROTECTION STANDARDS

Sections:

16C.05.28.010 General Standards

16C.05.28.020 Specific Standards

16C.05.28.010 General Standards

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

(a) Anchoring and Construction Techniques.

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

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

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

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

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

(b) Utilities.

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

(c) Subdivision Proposals. Subdivision proposals shall:

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

2119 water systems located and constructed to minimize flood damage;
 2120 (3) Have adequate drainage provided to reduce exposure to flood damage; and
 2121 (4) Include base flood elevation data.
 2122
 2123 (d) Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of
 2124 any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a
 2125 watercourse in riverine situations, the department shall notify adjacent communities, the
 2126 Department of Ecology and FEMA of the proposed development.
 2127
 2128 **16C.05.28.020 Specific Standards** In all special flood hazard areas where base elevation
 2129 data has been provided as set forth in Section 16C.05.20.010, the following regulations shall
 2130 apply, in addition to the general regulations of Section 16C.05.28.010:
 2131 (1) Residential Construction. (ref. IRC323.2)
 2132 (A) New construction and substantial improvement of any residential structure shall
 2133 have the lowest floor, including basement, elevated at a minimum to or above the base flood
 2134 elevation.
 2135 (B) Fully enclosed areas below the lowest floor that are subject to flooding are
 2136 prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior
 2137 walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement
 2138 must either be certified by a registered professional engineer or architect or must meet or exceed
 2139 the following minimum criteria:
 2140 (i) A minimum of two openings having a total net area of not less than one square
 2141 inch for every square foot of enclosed area subject to flooding shall be provided.
 2142 (ii) The bottom of all openings shall be no higher than one foot above grade.
 2143 (iii) Openings may be equipped with screens, louvers, or other coverings or devices,
 2144 provided that they permit the automatic entry and exit of floodwaters.
 2145 (C) Residential construction within one hundred feet of a floodway or the ordinary high
 2146 water mark, if no floodway has been established, shall also meet the requirements of Section
 2147 16C.05.28.010(a)(3).
 2148 (2) Nonresidential Construction. New construction and substantial improvement of any
 2149 commercial, industrial or other nonresidential structure, and any addition to an existing
 2150 floodproofed structure that would extend beyond the existing floodproofing, shall either have the
 2151 lowest floor, including basement, elevated a minimum of one foot above the base flood
 2152 elevation; or, together with attendant utility and sanitary facilities, shall:
 2153 (A) Be floodproofed so that below an elevation one foot above base flood level the
 2154 structure is watertight, with walls substantially impermeable to the passage of water; and
 2155 (B) Have structural components capable of resisting hydrostatic and hydrodynamic
 2156 loads and effects of buoyancy;
 2157 (C) Be certified by a registered professional engineer or architect that the design and
 2158 method of construction are in accordance with accepted standards of practice for meeting
 2159 provisions of this subsection, based on their development and/or review of the structural design,
 2160 specifications and plans. Such certifications shall be provided to the building official;
 2161 (D) Nonresidential structures that are elevated, not floodproofed, must meet the same
 2162 standards for space below the lowest floor as described in Section 16C.05.28.020(1)(B) above;
 2163 (E) Meet the special standards for structures set forth in Section 16C.05.28.010(a)(3)
 2164 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).

2195

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

2197 Sections:

2198 16C.05.32.010 Permitted Uses

2199 16C.05.32.020 Prohibited Uses

2200

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

(1) Any use permitted in the zoning district in accordance with YCC Title 15 or 15A of the Yakima County Code, unless prohibited by Section 16C.05.32.020.

(2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with YCC Title 15 and where not otherwise inconsistent with Chapters 16C.05.20 through 16C.05.72; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:

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

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

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

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

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

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

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

16C.05.36 FLOODWAY USES

Sections:

16C.05.36.010 Permitted Uses

16C.05.36.020 Prohibited Uses

16C.05.36.010

Permitted Uses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16C.05.40 NON-CONFORMING USES AND STRUCTURES

Sections:

16C.05.40.010	Generally
16C.05.40.020	Non-conforming Uses of Land
16C.05.40.030	Non-conforming Structures
16C.05.40.040	Improvements
16C.05.40.050	Restoration
16C.05.060	Discontinuance

16C.05.40.010 Generally

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

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

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

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

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

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

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

16C.05.40.030 Non-conforming Structures

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

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

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

16C.05.40.050 Restoration

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

16C.05.060 Discontinuance

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

16C.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION

Sections:

16C.05.44.010	Administration
16C.05.44.020	Authority
16C.05.44.030	Permit – Required
16C.05.44.040	Permit – Application
16C.05.44.050	Permit – Review
16C.05.44.060	Use of Available Data
16C.05.44.070	Limitations
16C.05.44.080	Permit – Expiration & Cancellation

16C.05.44.010 Administration

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

16C.05.44.020 Authority

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

16C.05.44.030 Permit – Required

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

16C.05.44.040 Permit – Application

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

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

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

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

16C.05.44.060 Use of Available Data

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

16C.05.44.070 Limitations

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

16C.05.44.080 Permit – Expiration & Cancellation

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

16C.05.44.090 Performance bonds

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

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

16C.05.44.100 Appeals

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

16C.05.44.110 Coordination

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

16C.05.48 ELEVATION AND FLOODPROOFING CERTIFICATION

Sections:

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

16C.05.48.010 Applicability

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

16C.05.48.020 Certification Form

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

16C.05.48.030 Information to be obtained and maintained

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

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

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

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

16C.05.48.040 Certification Responsibility

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

16C.05.52 VARIANCES

Sections:

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

16C.05.52.010 Procedure

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

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

16C.05.52.020 Variance limitations

(a) Variances shall be limited solely to the consideration of:

- (1) Elevation requirements for lowest floor construction;
- (2) Elevation requirements for floodproofing;
- (3) The type and extent of floodproofing.

(b) Variances shall not be considered for any procedural or informational requirements or use prohibitions of Chapters 16C.05.20 through 16C.05.72.

16C.05.52.030 Conditions for Authorization

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

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

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

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

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

(5) The granting of such a variance will not result in:

- (A) Increased flood heights,
- (B) Additional threats to public safety,
- (C) Creation of nuisances,
- (D) Extraordinary public expense,
- (E) Conflicts with other existing local laws or ordinances.

16C.05.52.040 Administrative Official's Decision

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

16C.05.52.050 Notification and Final Decision

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

16C.05.52.060 Power to Refer Decisions

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

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 Section16C.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.

2667		Chapter 16C.06
2668		FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM
2669	<u>Sections:</u>	
2670		Introduction
2671	16C.06.01	Purpose and Intent
2672	16C.06.02	Protection Approach
2673		
2674		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
2682		Standards
2683		General Development Standards
2684	16C.06.10	Prohibited Uses
2685	16C.06.11	General Policies and Standards
2686		
2687		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
2693		
2694		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;

- b) Protect habitat for riparian (near-water) species through stream, lake, pond, and wetland standards and buffer requirements;
- c) Protect habitat for upland species using the upland wildlife habitat protection measures described below.
- 2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land, including State Natural Area Preserves and Natural Resource Conservation Areas. These lands are managed to some extent for the conservation of wildlife habitat. Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is to rely on the management of these lands by the responsible entity.
- 3) To accomplish upland wildlife protection on private lands, Yakima County performed an assessment to map wildlife habitat. Only a small percentage of the mapped area is within private ownership and that is largely in remote areas of forest and rangeland. Consequently, part of Yakima County's approach to protect upland wildlife on private land is to rely on the large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum) and Agriculture (40 acre minimum) zoning districts.
- 4) Corridors for wildlife to move between large habitat areas are a component of wildlife habitat. Riparian corridors offer a natural system of linkages between such areas. In semi-arid regions such as Yakima County, riparian corridors not only offer migratory linkages between large habitat areas but also offer important refuge and habitat for numerous species that rely on the riparian areas for their existence. Consequently, Yakima County's approach to protect wildlife migration corridors and riparian habitat is to rely on the protection measures for stream corridors, wetlands, and Shoreline jurisdiction, where applicable.
- 5) Yakima County's approach to protecting aquatic habitat is to rely on the protection standards for stream corridors, wetlands, and Shoreline jurisdiction (where applicable).
- 6) The state gives some discretion to local governments in designating fish and wildlife habitat. WAC 365-190-080(5)(a) (fish and wildlife habitat designation) identifies six non-marine habitat types from which to choose in designating fish and wildlife habitat, but does not require the use of all listed habitat types. Five habitat types are protected using the approaches described above. The remaining habitat type - Threatened, Endangered, and Sensitive Species Habitat is difficult to use due to the difficulties in obtaining accurate maps of habitat for the different species. In addition, such species are protected by federal and state laws which are administered by other agencies. Yakima County's approach to protecting Threatened, Endangered, and Sensitive Species Habitat is to do so indirectly, using each of the above listed protection approach items. Direct protection measures are deferred to the relevant state or federal agency with jurisdiction over the different species. Yakima County will consider comments and advice related to a species from such agencies 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:

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

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

- 2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main channel and all secondary channels within the Ordinary High Water Mark;
- 3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-made lakes and ponds created within a stream channel designated under (2) above;
- 4) All wetlands, that meet the definition found in Section 16C.02.425, as required by WAC 365-190-080(1), and as designated in section 16C.07.02(1) of the wetland chapter;
- 5) Where specifically cited, any flood-prone area not included in a designated floodway and floodplain but indicated as flood-prone by U.S. Soil Conservation Service soil survey data or geologic evidence developed through professional geologists or engineers;
- 6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream channel, lake, or pond, designated in this section or from the edge of a wetland designated in this section according to the distances set forth in Section 16C.06.16 (Vegetative Buffers);

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

- 1) State Natural Area Preserves and Natural Resource Conservation Areas shall be designated Upland Wildlife Habitat.
- 2) Species and Habitats of Local Importance. These are habitats or species that due to their declining population, sensitivity to habitat manipulation or other values make them important on a local level. Habitats of Local Importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
 - a) Species and Habitats of Local Importance may be identified for protection under this title. State or local agencies, individuals or organizations may identify and nominate for consideration specific species and habitats, or a general habitat type, including streams, ponds or other features. Proponents shall have the burden of presenting evidence concerning the criteria set forth below. The nomination shall be processed once a year through the annual Comprehensive *Plan 2015* amendment cycle.
 - b) The decision for changes to species and habitats of local importance should consider:
 - i) Concern due to population status;
 - ii) Sensitivity to habitat manipulation;
 - iii) Importance to the local community, and/or;
 - iv) The economic impact both positive and negative to the applicants property or surrounding property. Economic impacts are to be determined by a properly qualified individual or firm using industry standards.
 - c) Nominated habitats, and habitats for species of local importance shall consider the following, and must include maps to illustrate the proposal:
 - i) A seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain or reproduce over the long term;
 - ii) Areas of high relative density or species richness, breeding habitat, winter range, and movement corridors;
 - iii) Habitat with limited availability or high vulnerability to alteration;
 - iv) Whether these habitats are already identified and protected under the provisions of this or other county ordinances or state or federal law.

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

16C.06.05 Functional Properties

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

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

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

16C06.08 Maps

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

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

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

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

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

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

General Development Standards

16C.06.10 Prohibited Uses

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

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

16C.06.11 General Policies and Standards

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

- 1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland buffers shall be marked on the ground before any development, construction, or use is initiated.
- 2) Existing riparian vegetation and any unique or sensitive vegetative species identified on the project site within the stream corridor shall be disturbed to the minimum extent possible.
- 3) Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be disturbed to the minimum extent possible.
- 4) Projects within the stream corridor shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered.
- 5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved by a local, state or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the Eastern Washington Stormwater Manual are exempt from the requirements below.
 - a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.
 - b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion.
 - c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.
 - d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and meltwater runoff into stream channels, drainage ways, and conduits, shall provide on-site or off-site facilities for the detention, control, and filtration of such increases.
 - e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.
 - f) Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.
- 6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.
- 7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.
- 8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.
- 9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.

- 10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.
- 11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.
- 12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.
- 13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.
- 14) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- 15) Development, construction, or uses within the hydrologically related critical area that would contribute to the degradation of the functions and values shall be avoided or mitigated using mitigation sequencing as outlined in section 16C.03.10 (Mitigation Requirements).
- 16) Development shall not obstruct, cut off, or isolate stream corridor features.
- 17) Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership.
- 18) If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify Yakima County, the Washington State Office of Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).
- 19) The provisions of Chapter 16C.05 of this title shall also apply to the development of lots and the placement, construction, or installation of structures in floodways and floodplains.
- 20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using reclamation standards in section 16C.06.23 (Reclamation).
- 21) Projects located within the floodway must meet the requirements of 16C.05.36.010 (Floodway – Permitted Uses).
- 22) Projects within a floodplain must meet the requirements of section 16C.05.28. (Flood Hazard Protection Standards) and 16C.05.32 (Floodway Fringe Uses).
- 23) Changing from an existing use or development which does not meet the provisions of this chapter to a new use shall be reviewed in light of the following:
- a) The conversion will demonstrably reduce impacts to stream corridor and other hydrologically related critical area features; and
 - b) The conversion will restore and/or enhance the functional properties outlined in Section 16C.06.05 (Functional Properties).

Water Dependency Development Standards and Buffer Requirements

16C.06.12 Use Classifications

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

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

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

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

16C.06.13 Water-dependent Uses

The following provisions shall apply to water-dependent uses:

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

16C.06.14 Water-related Uses

The following provisions shall apply to water-related uses:

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

16C.06.15 Non-water Oriented Uses

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

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

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

16C.06.16 Vegetative Buffers

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

- 1) Vegetative buffers shall be measured from the Ordinary High Water Mark (OHWM) for streams, lakes and ponds, and from the wetland edge for wetlands, as identified in the field. The width of the buffer shall be determined according to the stream or wetland type.
- 2) Buffer width may be reduced through an Adjustment (16C.03.23) permit process. Type 1 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D) rather than the Critical Areas Ordinance (YCC Title 16C).
- 3) The minimum buffer widths listed in Tables 4-1 and 4-2 apply only for Adjustments. Adjustments below the minimum buffer must meet additional approval criteria as provided in section 16C.03.23(3)(d) (Adjustments).
- 4) The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation is degraded, then no adjustment to the buffer width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

Table 6 – 1

Stream Type	Buffer Width 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.

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'

Land Modification Development Standards

16C.06.17 Roads, Railroads and Parking

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

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

16C.06.18 Utility Transmission Lines and Facilities

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

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

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

16C.06.19 Shore Stabilization

- 1) The following provisions shall apply to shore stabilization projects:
Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, or facilities, and which stabilization will not jeopardize other upstream or downstream properties;
- 2) Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise;
- 3) Stabilization projects shall be confined to the minimum protective measures necessary to protect the threatened property;
- 4) The use of fill to restore lost land may accompany stabilization work, provided the resultant shore does not extend beyond the new ordinary high water mark, finished grades are consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with Section 16C.06.21 (Filling);
- 5) Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects;
- 6) Alternative Preferences. Vegetation, berms, bioengineering techniques, and other nonstructural alternatives which preserve the natural character of the shore shall be preferred over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization.

- Riprap using rock or other natural materials shall be preferred over concrete revetments, bulkheads, breakwaters, and other structural stabilization;
- 7) Applications to construct or enlarge dikes or levees shall meet the requirements of 16C.05.36.010(6);
 - 8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore;
 - 9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or other solid construction methods;
 - 10) All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

16C.06.20 Dredging and Excavation

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

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

16C.06.21 Filling

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

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

3338 **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

3366 **16C.06.23 Reclamation**

3367 The following guidelines shall apply to the reclamation of disturbed sites resulting from
3368 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.

Chapter 16C.07
WETLANDS

Sections:

- 16C.07.01 Purpose and Intent
- 16C.07.02 Designating and Mapping
- 16C.07.03 Protection Approach
- 16C.07.04 Wetland Functions and Rating
- 16C.07.05 Compensatory Mitigation Requirements
- 16C.07.06 Wetland Mitigation Banks

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

16C.07.02 Designating and Mapping

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

16C.07.03 Protection Approach

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

16C.07.40 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 3502 **16C.07.05 Compensatory Mitigation Requirements**

3503 Projects that propose to compensate for wetland acreage and/or functions are subject to State and
3504 Federal regulations. Compensatory mitigation for alterations to wetlands shall provide no net
3505 loss of wetland functions and values, and must be consistent with the Mitigation Plan
3506 Requirements in section 16C.03.17 (13) (Compensatory Mitigation Plans). The following
3507 guidance documents were developed to assist applicants in meeting the regulations and
3508 requirements.

- 3509 1) Compensatory mitigation plans must be consistent with *Guidance on Wetland Mitigation in*
3510 *Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and*
3511 *Proposals* or as revised (Washington State Department of Ecology, U.S. Army Corps of
3512 Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology
3513 publication number 04-06-013B -
3514 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).
- 3515 2) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent
3516 with "*Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing*
3517 *Wetlands – Appendix 8-D- Section 8-D3*" or as revised (Washington State Department of
3518 Ecology. Publication number 05-06-008 -
3519 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).

3520 3521 **16C.07.06 Wetland Mitigation Banks**

- 3522 1) Credits from a wetland mitigation bank may be approved for use as compensation for
3523 unavoidable impacts to wetlands when:
3524 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
3739 **16C.08.05 General Protection Requirements**

- 3740 1) Grading, construction, and development and their associated facilities shall not be located in
3741 a geologically hazardous area, or any associated setback for the project recommended by the
3742 geo-technical report, unless the applicant demonstrates that the development is structurally
3743 safe from the potential hazard, and that the development will not increase the hazard risk
3744 onsite or off-site.
- 3745 2) Development shall be directed toward portions of parcels, or parcels under contiguous
3746 ownership, that are at the least risk of hazard in preference to lands with higher risk, unless
3747 determined to be infeasible in the geo-technical report.
- 3748 3) The geo-technical report shall recommend methods to ensure the information and education
3749 about the hazard and any recommended buildable area for future landowners over the long
3750 term.
- 3751 4) The applicable requirements of grading and construction permits for developments in
3752 hazardous areas must be included in the development proposal and geo-technical report.

Chapter 16C.09

CRITICAL AQUIFER RECHARGE AREAS (CARA)

Sections:

16C.09.01 Purpose and Intent

16C.09.02 Mapping

16C.09.03 Protection Approach

16C.09.04 References

16C.09.01 Purpose and Intent

- 1) The Growth Management Act (RCW 36.70A) requires local jurisdictions to protect, through designation and protection, areas with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water. These areas are referred to as Critical Aquifer Recharge Areas (CARA) in this title.
- 2) Potable water is an essential life sustaining element. Much of Yakima County's drinking water comes from groundwater supplies. Once groundwater is contaminated it can be difficult, costly, and sometimes impossible to clean up. In some cases, the quality of groundwater in an aquifer is inextricably linked to its recharge area
- 3) The intent of this chapter is to:
 - a) Preserve, protect, and conserve Yakima County's CARA from contamination;
 - b) Establish a protection approach that emphasizes the use of existing laws and regulations, and minimizes the use of new regulations.
- 4) It is not the intent of this ordinance to:
 - a) regulate everyday activities (including the use of potentially hazardous substances that are used according to State and Federal regulations and according to label specifications);
 - b) enforce or prevent illegal activities;
 - c) regulate land uses that use or store small volumes of hazardous substances (including in-field agricultural chemical storage facilities, which do not require permits, or are already covered under existing state, federal, or county review processes and have detailed permit review);
 - d) establish additional review for septic systems, which are covered under existing County review processes and have detailed permit review by another agency;
 - e) establish additional review for stormwater control, which are covered under existing County review processes and have detailed permit review, or;
 - f) require review for uses that do not need building permits and/or zoning review.

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

16C.09.02 Mapping

- 1) **Mapping Methodology** – The CARA are depicted in the map titled “Critical Aquifer Recharge Areas of Yakima County”. The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology “Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances” (Publication #97-30). Yakima County has determined this

analysis to be the best available science at the time the analysis was conducted. This analysis was at a coarse, countywide scale, rather than a site specific assessment. The approximate location and extent of critical aquifer recharge areas are shown on the map, and are to be used as a guide for the county, project applicants and/or property owners, and may be updated as more detailed data becomes available. The CARA map estimates areas of moderate, high and extreme susceptibility to contamination, in addition to wellhead protection areas. To characterize hydrogeologic susceptibility of the recharge area to contamination, the GIS analysis used the following physical characteristics:

- a) Depth to ground water;
- b) Soil (texture, permeability, and contaminant attenuation properties);
- c) Geologic material permeability;
- d) Recharge (amount of water applied to the land surface, including precipitation and irrigation).

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

16C.09.03 Protection Approach

- 1) Maps shall be used only as an informational resource to communicate with applicants on potential problems with meeting the applicable laws on a particular site. The maps indicate that high susceptibility areas tend to be located in the valley bottoms and follow along floodplain and stream corridors, with the extreme susceptibility locations being largely within floodplains, and along streams and wetlands.
- 2) Land uses are subject to many existing, federal, state, local, or tribal laws regarding the handling of substances that may contaminate CARAs. Additional regulatory standards by Yakima County are not needed. Disclosure, educational information, and coordination of existing laws during existing review processes can accomplish the requirement to protect Critical Aquifer Recharge Areas. Consequently, Yakima County's protection of CARA shall be accomplished through normal project permit review under various Yakima County Codes, especially the stream protection standards in Chapter 16C.06 (Fish and Wildlife Habitat and the Stream Corridor System), including section 16C.06.10 (Prohibited Uses); the Shoreline Use Table in YCC Title 16D, section 16D.10.05 and YCC Title 13 (Building and Construction Code), which provides detailed construction, use, and fire/life-safety standards for the storage and handling of dangerous and hazardous substances to a greater extent than most existing state and federal laws.
- 3) The Administrative Official shall develop and maintain a list of the relevant laws noted above. This list shall be informational, and is intended to be used in coordination with 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.
3858

**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**

BOCC Final

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.

BOCC Final

Wells provide a potential source of contamination of both the shallow and deeper aquifers. The proliferation of individual domestic and irrigation wells increases the risk that contamination may find its way into the groundwater. Although the quality of groundwater resources used for drinking water in Yakima County is generally good, the potential for problems exists because many wells tap shallow aquifers (less than 100 feet) which are extremely susceptible to surface contamination. The following goal and policies address these concerns by encouraging the identification of aquifers and taking steps to reduce potential contamination.

GOAL NS 89: Maintain and manage the quality of the groundwater resources in Yakima County as near as possible to their natural conditions and in compliance with state water quality standards.

POLICIES:

NS 89.1 Identify and map important aquifers, critical aquifer recharge areas, and surface waters.

NS 89.2 Develop performance standards and regulate ~~uses for~~ activities which adversely impact water quantity and quality in aquifers, wetlands, watersheds and surface waters.

NS 89.3 Evaluate the potential impact of development proposals on groundwater quality, and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

NS 89.4 Continue data collection and evaluation efforts to better understand the County's groundwater system and its vulnerability to contamination.

NS 89.5 Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

NS 89.6 Conduct and support educational efforts which inform County citizens of measures they can take to reduce contaminant loading of groundwater systems.

NS 89.7 Encourage development and expansion of community public water systems to lessen the reliance on individual wells.

NS 89.8 Ensure that abandoned wells are closed properly.

NS 89.9 Ensure sufficient water quantity exists to support land use activities.

Surface Water

PURPOSE STATEMENT NS 9, 10, & 11 & 12

The Yakima River and its many tributaries are perhaps the most dynamic and used natural features in Yakima County. Throughout its 200-mile course, water from the Yakima is

BOCC Final

withdrawn to feed agricultural operations that drive our economy. Irrigation and other water uses developed both inside and outside the Yakima Irrigation Project, developed under the 1903 Reclamation Act, are relatively unique in that all of the water for irrigation is generated, stored and distributed in the Valley. The tributaries, the Naches River and the Yakima River are used as the conduit for the water distributions system in the Valley. The Yakima River is used as the trunk of the water distributions system, is the most important component of the Yakima Project, and probably is the most important piece of infrastructure in the Valley. Agriculture, industry, recreation and the Cities within the basin are dependent on this distribution system for water supply for domestic, industrial, agricultural and residential uses. The demands of this economy are continuing to increase, while existing operations return flows of a far lesser quality. The combined historic actions of over withdrawal, pollution and vegetation removal have produced a waterway that exits Yakima County completely altered from the condition in which it begins near Snoqualmie Pass. To deal with the situation, efforts by many parties have been made to improve stream corridors within the County, especially in the areas of water quality and habitat. The following goals and policies address actions and attitudes that should guide decisions related to surface water.

GOAL NS 910: Enhance the quantity and quality of surface water.

POLICIES:

NS 109.1 Improve water conservation through education and incentives.

NS 109.2 Protect water quality from the adverse impacts associated with erosion and sedimentation.

NS 109.3 Encourage the use of drainage, erosion and sediment control practices for all construction or development activities.

GOAL NS 1011: Identify future needs and promote increased water supplies through coordinated development and conservation efforts.

POLICY:

NS 1011.1 Support local and regional cooperative efforts which help to accomplish this goal.

GOAL NS 1112: Restore, maintain or enhance the quality of the Yakima River Basin's surface water.

POLICIES:

NS 1112.1 Maintain local control over water quality planning by: 1) providing guidance to state and federal agencies regarding water quality issues, priorities and needs; and 2) demonstrating progress in accomplishing the goals and objectives of the Yakima River Basin locally developed Water Quality Plans, thereby pre-empting externally-imposed solutions to water quality problems as much as possible.

NS 1112.2 Make use of local and regional data sources to assess water quality progress.

NS 1112.3 Participate in water quality improvement planning and implementation efforts by local, regional, state, federal, and tribal agencies, as well as coalitions such as the Yakima River local Watershed Council planning efforts.

BOCC Final

Flood Hazards and Stormwater

PURPOSE STATEMENT NS 12-13 and 14

While stormwater management may be of less concern in Yakima County than in areas that receive more precipitation, localized flooding does occur in certain areas, such as Wide Hollow Creek, Ahtanum Creek, and Cowlitz Creek. If the amount of impervious area in a watershed increases, and provisions are not made for retaining stormwater on-site, up-watershed areas can contribute to the flooding hazards of their down-stream neighbors, and flooding becomes more frequent and more severe. If the natural drainage courses are obstructed with fill material, buildings, or roads that lack adequately-sized culverts, storm water can cause localized flooding, with property damage and disruption of services.

~~The Yakima area may soon be subject to state and federal water quality requirements for control of urban runoff. The Yakima Urban Area Storm Water Management Plan has identified various actions that are needed for either stormwater control, water quality improvement, or both. The County was recommended as the lead agency for implementing that storm drainage plan, and has tentatively accepted that role. Yakima County is subject to state and federal water quality and Underground Injection Control (UIC) regulations. Some Urban Areas within Yakima County are also subject to state and federal stormwater regulations.~~

GOAL NS 12-13: Prevent increased flooding from stormwater runoff.

POLICIES:

NS 12-13.1 Require on-site retention of stormwater.

NS 12-13.2 Preserve natural drainage courses.

NS 12-13.3 Minimize adverse storm water impacts generated by the removal of vegetation and alteration of land forms.

GOAL NS 13-14: Improve water quality through improved stormwater management.

POLICIES:

NS 13-14.1 Review the recommendations of locally adopted the Yakima Urban Area Stormwater Management Plans, and develop a realistic implementation schedule.

NS 13-14.2 Control stormwater in a manner that has positive or neutral impacts on the quality of both surface and groundwater, and does not sacrifice one for the other.

FISH AND WILDLIFE HABITAT, WETLANDS, AND FREQUENTLY FLOODED AREAS

PURPOSE STATEMENT NS 15, 16, 17 and 18

Yakima County contains some of the most diverse and unique fish and wildlife habitat found anywhere in the country. These environments provide places where animals can find food,

BOCC Final

water, shelter, and security, and act as gene pools to assure continued genetic diversity. The following goal and supporting policies encourage the protection of fish and wildlife habitat in order to protect the environment for multiple uses. While fish and wildlife habitat includes upland habitat, state administrative code (WAC 365-190-080(5)) focuses on habitat that is related to water.

Stream corridors, lakes, ponds, wetlands, flood plains and other areas subject to flooding perform important hydrologic functions including storing and slowly releasing flood waters, reducing floodwater velocities, and settling and filtering of sediment and nutrients, shading surface waters, and other functions. ~~Frequently flooded~~ These areas also provide natural areas for wildlife and fisheries habitat, recreation areas and rich agricultural lands. Development in ~~frequently flooded~~ these areas diminishes ~~these~~ their functions and values and can present a risk to persons and property on the development site and/or downstream from the development. Building in frequently flooded areas also results in high costs for installing flood protection measures to protect life and property and to repair flood damages. The following goal and policies seek to ~~reduce these hazards through comprehensive flood control planning, directing facility development away from these areas, and developing site development standards for flood hazard areas.~~

Wetlands are an economically, biologically, and physically valuable resource. They are the most biologically productive ecosystems in nature, even though they constitute only a small percentage of the total landscape. They provide important nursery and spawning areas, which in turn support a strong commercial and recreational industry. ~~Under proper management, forested wetlands are an important source of timber. They~~ Wetlands also play an important function in local and regional hydrologic cycles.

The following goals and policies work toward preserving, protecting and managing fish and wildlife habitat and wetlands by ~~adopting~~ boundaries, and a data system to track ~~wetlands~~ them, and establishing development regulations to ~~for their protection~~ them. These goals and policies also seek to reduce the hazards and impacts of development through comprehensive flood control planning, directing facility development away from these areas, and developing site development standards.

FISH AND WILDLIFE HABITAT

GOAL NS 1715: Provide for the maintenance and protection of habitat areas for fish and wildlife.

POLICIES:

NS 1715.1 Encourage the protection of fish and wildlife habitat from a region- wide perspective to ensure that the best representation and distribution of habitats remains to protect the natural values and functions of those habitats. Fish and wildlife habitat protection considerations should include:

1. The physical and hydrological connections between different habitat types to prevent isolation of those habitats;
2. Diversity of habitat types both on a local and regional scale;

BOCC Final

3. Large tracts of fish and wildlife habitat;
4. Areas of high species diversity;
5. Locally or regionally unique and rare habitats; and
6. Winter range and migratory bird habitat of seasonal importance.

NS 17.15.2 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.

NS 17.15.3 Encourage the retention of sustainable natural resource based industries such as forestry and agriculture in order to protect important fish and wildlife habitat.

NS 17.15.4 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.

~~**NS 17.5** Limit development projects or require mitigation measures in areas adjacent to public lands containing significant fish and wildlife habitat.~~

NS 17.15.65 Protect the habitat of Washington State Listed Species of Concern and Priority Habitats and Species in order to maintain their populations within Yakima County.

NS 17.15.76 Work with the resource agencies to prioritize habitats and provide appropriate measures to protect them according to their relative values.

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.

POLICIES:

~~**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.~~

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.

BOCC Final

NS 16.3 Protect public and private properties by limiting development within hazardous areas of the stream corridor.

NS 16.4 Give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries.

NS 16.5 Establish a system of vegetative buffers landward from the ordinary high water mark of streams, lakes and ponds and the edge of wetlands.

Frequently Flooded Areas

GOAL NS 1517: Prevent the loss of life or property and minimize public and private costs associated with repairing or preventing flood damages from development in frequently flooded areas.

POLICIES:

NS 1517.1 Support comprehensive flood control planning.

NS 1517.2 Yakima County should conduct additional analysis and mapping of frequently flooded areas in cases where the 100-year floodplain maps prepared by the Federal Emergency Management Agency do not adequately reflect the levels of risk or the geographic extent of flooding.

NS 1517.3 Direct new critical facility development away from areas subject to catastrophic, life-threatening flood hazards where the hazards cannot be mitigated.

NS 1517.4 Where the effects of flood hazards can be mitigated require appropriate standards for subdivisions, parcel reconfigurations, site developments and for the design of structures. {Amended 12/98}

NS 17.8 Plan for and facilitate returning Shoreline rivers to more natural hydrological conditions, and recognize that seasonal flooding is an essential natural process.

NS 17.9 When evaluating alternate flood control measures on Shoreline rivers:

- 1) consider the removal or relocation of structures in the FEMA 100-year floodplain;
- 2) where feasible, give preference to nonstructural flood hazard reduction measures over structural measures;
- 3) structural flood hazard reductions measures should be consistent with the County's comprehensive flood hazard management plan.

Wetlands

GOAL NS 18: Provide for long-term protection and no net loss of wetland functions and values.

BOCC Final

POLICIES:

NS 18.1 Preserve, protect, manage, and regulate wetlands for purposes of promoting public health, safety and general welfare by:

1. Conserving fish, wildlife, and other natural resources of Yakima County;
2. Regulating property use and development to maintain the natural and economic benefits provided by wetlands, consistent with the general welfare of the County;
3. Protecting private property rights consistent with the public interest; and
4. Require wetland buffers and building setbacks around regulated wetlands to preserve vital wetland functions and values.

NS 18.2 Adopt a clear definition of a regulated wetland and a method for delineating regulatory wetland boundaries.

NS 18.3 Classify regulated wetland areas to reflect their relative function, value and uniqueness.

NS 18.4 Develop a wetlands database.

NS 18.5 Manage and mitigate human activities or actions which would have probable adverse impacts on the existing conditions of regulated wetlands or their buffers.

NS 18.6 Require mitigation for any regulated activity which alters regulated wetlands and their buffers. Develop ratios, performance standards, monitoring, and long-term protection.

GEOLOGIC HAZARDS

PURPOSE STATEMENT NS 1619

Geologic hazards pose a threat to the health and safety of County citizens when incompatible commercial, residential, or industrial development and associated infrastructure is sited in areas of significant hazard. The following goal and policies address the risk associated with these areas by encouraging engineering designs or modified construction practices that will mitigate problems, and prohibiting building where problems cannot be mitigated.

GOAL NS 1619: Protect the public from personal injury, loss of life or property damage from geologic hazards.

POLICIES:

NS 1619.1: Ensure that land use practices in geologically hazardous areas do not cause or exacerbate natural processes which endanger lives, property, or resources.

NS 1619.2 Locate development within the most environmentally suitable and naturally stable portions of the site.

BOCC Final

364 | **NS 1619.3** Classify and designate areas on which development should be prohibited,
365 | conditioned, or otherwise controlled because of danger from geological hazards.

366

367 | **NS 1619.4** Prevent the subdividing of known or suspected landslide hazard areas, side slopes of
368 | stream ravines, or slopes 40 percent or greater for development purposes.

369

PC Hearing Draft