

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE 5-2012

IN THE MATTER OF AMENDING ORDINANCE 4-1996, ORDINANCE 4-2000 AND YAKIMA COUNTY CODE TITLE 16B, LAST AMENDED BY ORDINANCE 9-2009, PERTAINING TO PROJECT PERMIT ADMINISTRATION AND AMENDMENTS TO OFFICIAL CONTROLS.

WHEREAS, the Board of Yakima County Commissioners is engaged in a systematic update of several of its adopted codes, in collaboration with internal and external customers, to help improve procedures and regulations consistent with the law; and

WHEREAS, the Board wishes to initiate this Code Update / Simplification Project (CU/SP) by first consolidating and improving procedures for governmental action regarding issuance of project permits and the conduct of environmental review, processing permit appeals, enforcing permit decisions, monitoring conditions, implementing development regulations, and amending development regulations and comprehensive plans; and

WHEREAS, the Board held a duly advertised public hearing for the purpose of considering adopting Ordinance 5-2012 amending Yakima County Code Title 16B on May 29, 2012, pursuant to Resolution No. 177-2012 dated May 15, 2012, wherein testimony was heard from all persons present who wished to be heard; and

WHEREAS, the Board deliberated on the proposed legislation and text amendments after considering all written comments received, the testimony at its public hearing, and staff recommendations; and

WHEREAS, after considering the testimony and materials presented, the Board believes it is in the best public interest to amend Yakima County Code Title 16B and related sections of Yakima County Code; now, therefore,

BE IT HEREBY ORDAINED BY THE BOARD OF YAKIMA COUNTY COMMISSIONERS:

Section 1 Legislative Intent. The Board's intent and purpose in adoption of amendments to Yakima County Code (YCC) Title 16B as set forth in Section 2 attached hereto is to establish consistency in the administration and interpretation of Yakima County Code. To that end, the provisions of YCC Title 16B as amended shall be controlling. Those titles, chapters and sections of Yakima County Code not modified by this ordinance remain as originally adopted together with all amendments to date; except that YCC Title 16B shall supersede and replace any other titles, chapters and sections of Yakima County Code that are found by the Administrative Official to be inconsistent with and or conflict with the provisions of YCC 16B as amended by this Ordinance.

Section 2. Adoption. The Board hereby adopts the following amendments to YCC Title 16B to read as set forth in Exhibits "A" and "B" to Ordinance 5-2012.

Section 3 Findings. The Board adopts the following findings related to the proposed legislative action as follows:

A. The Board finds that all statutory and County prerequisites for the review and evaluation of YCC Title 16B, as well as the requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process, have been met.

B. The Board finds the amendments to Yakima County Code made in Section 2 of this Ordinance are related solely to governmental procedures containing no substantive standards respecting use or modification of the environment. Such exempt procedural actions are exempt from SEPA consistent with the provisions of WAC 197-11-800 (19).

C. The Board finds that the procedural amendments to Yakima County Code made in Section 2 of this Ordinance are related solely to governmental procedures and as such are not official controls as that term is used in 36.70 RCW.

D. The Board further finds and concludes that adoption and implementation of the procedural amendments to Yakima County Code in Section 2 of this Ordinance to be in the public interest, necessary to maintain compliance with State law and consistent with its objectives for the Code Update/Simplification Project initiative.

Section 4. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

Section 5. Effective date. This ordinance shall be effective at 12:01 A.M. on July 1, 2012.

Dated this 5th day of June, 2012.

Attest:



Tiera Grard, Clerk of the Board

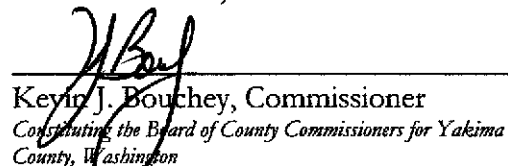
Mandy Burkett
Deputy Clerk of the Board



BOARD OF YAKIMA COUNTY
COMMISSIONERS


J. Rand Elliott, Chairman


Michael D. Leita, Commissioner


Kevin J. Bouchey, Commissioner
*Constituting the Board of County Commissioners for Yakima
County, Washington*

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EXHIBIT A to Ordinance 5-2012

Title 16B PROJECT PERMIT ADMINISTRATION

Chapters

- 16B.01 Purpose and Authority
- 16B.02 Definitions
- 16B.03 Classification by Project Permit Type
- 16B.04 Application Process
- 16B.05 Public Notice
- 16B.06 Consistency Analysis and SEPA Integration
- 16B.07 Final Decisions
- 16B.08 Open Record Public Hearings
- 16B.09 Administrative Appeals, Closed Record Hearings, ~~((Administrative Appeals,))~~
and Judicial Appeals
- 16B.10 Comprehensive Plan and Regulatory Amendment Procedures
~~((amended Ord. 9-2009, effective 12/31/09)))~~
- 16B.11 Violations and Enforcement

Appendices

Appendices are not part of the enactment but are listed here and attached to the printed version of this Title for convenience of the users.

Appendix A Chapter 36.70B RCW

Appendix B Chapter 36.70C RCW

Appendix C Selected references from RCW and Washington Administrative Code (WAC)

Appendix D Index of hyperlinks

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Chapter 16B.01 PURPOSE AND AUTHORITY

Sections:

- 16B.01.010 Purpose and Authority.
- 16B.01.020 Applicability.
- 16B.01.030 Legislative Decisions.
- 16B.01.040 Legislative Enactments not Restricted.
- 16B.01.050 Conflict of Provision.

16B.01.010 Purpose and Authority.

- ~~((A))~~(1) It is the purpose of this Title to effectively and efficiently administer applications for land use development activities (entitled "Project Permit Applications" by this Title) by creating a permit classification system with consistent procedures for similar application types, and by combining the environmental review process (SEPA), both procedural and substantive, with the procedures for review of project applications.
- ~~((B))~~(2) When a project permit application is filed, the project review process shall include land use, environmental, public, and governmental review so that documents prepared under different requirements can be reviewed together by the public and other agencies, in one project review process.
- ~~((C))~~(3) This integrated review process features the following elements.
- ~~((1))~~(a) A determination of application completeness issued to the applicant within twenty-eight days of application submittal (Chapter 16B.04);
 - ~~((2))~~(b) A combined Notice of Application to the public and agencies with jurisdiction (Chapter 16B.05);
 - ~~((3))~~(c) A determination of the consistency of a proposed project with applicable development regulations and comprehensive plans (Chapter 16B.06);
 - ~~((4))~~(d) An optional (~~master application~~) consolidated permit review process for development proposals involving more than one application procedure (Section 16B.03.060);
 - ~~((5))~~(e) Provisions for use of existing comprehensive plans and development regulations in the environmental review of proposed projects subject to SEPA (Chapter 16B.06);

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- ~~((6))~~(f) Provisions for joint public hearings or meetings held with other local, state, regional or federal agencies with jurisdiction over a proposed project (Section 16B.08.070);
- ~~((7))~~(g) A single report stating all the decisions made as of the date of the report on all project permits, including any environmental determinations, on a proposed permit project (Chapter 16B.07);
- ~~((8))~~(h) Except for the appeal of a Determination of Significance under SEPA, no more than one open record hearing on a project permit (Section 16B.03.050); and,
- ~~((9))~~(i) A notice of final decision issued within 120 days of the determination of application completeness (Chapter 16B.07).

16B.01.020 Applicability.

The provisions of this Title shall apply to all applications for land use or environmental permits subject to review under the following Chapters and Titles of the Yakima County Code.

- (1) ~~((Title))~~ Chapter 12.10 – Stormwater Authority.
- (2) Title 14 – Subdivisions.
- (3) Title 15 - Yakima County Zoning.
- (4) Title 15A - Yakima County Urban Growth Area Zoning.
- (5) Title 16A - Critical Areas.
- (6) Title 16 – ~~((SEPA))~~ Environment.
- (7) Titles 16A and 16C - Critical Areas.
- (8) Title 16D - Yakima County Regional Shoreline Master Program.

16B.01.030 Legislative Decisions.

The following actions are legislative, and are not subject to the project permit procedures in ~~((this))~~ Chapters 16B.03, 16B.04, 16B.07, 16B.08, 16B.09 and 16B.11 of this Code, unless otherwise specified:

- ~~((A))~~(1) Zoning code text and Zoning District amendments;

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- ~~((B))~~(2) Adoption and amendment of development regulations as defined by RCW 36.70A;
- ~~((C))~~(3) Area-wide rezones to implement new county policies; and
- ~~((D))~~(4) Adoption of the county comprehensive plan, sub-area plans, other general purpose or specific county plans and any plan amendments.

16B.01.040 Legislative Enactments not Restricted.

Nothing in this Title shall limit the authority of the Board of County Commissioners to amend the County's comprehensive plan or development regulations.

16B.01.050 Conflict of Provision.

In the event of conflicts between any portion of this Title and other rules, regulations, resolutions, ordinances or statutes lawfully adopted by Yakima County, the procedures contained in this Title shall govern.

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Chapter 16B.02 DEFINITIONS

Sections:

16B.02.010	Definitions.
16B.02.020	Administrative Official.
16B.02.030	Agency with Jurisdiction.
16B.02.040	Board of County Commissioners.
<u>16B.02.045</u>	<u>Buildable Land.</u>
16B.02.050	Closed Record Appeal.
<u>16B.02.055</u>	<u>Day.</u>
16B.02.060	Decision Maker.
16B.02.070	Hearing Examiner.
16B.02.080	Open Record Hearing.
<u>16B.02.082</u>	<u>Optional Consolidated Permit Review.</u>
<u>16B.02.085</u>	<u>Policy Plan Map.</u>
16B.02.090	Project Permit Application.
<u>16B.02.093</u>	<u>Public Meeting.</u>
<u>16B.02.095</u>	<u>Reviewing Official.</u>
16B.02.100	SEPA.
<u>16B.02.105</u>	<u>Subdivision Exemption Authorization.</u>

16B.02.010 Definitions.

Certain terms and words used in this Title are defined in the following Sections. 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; "shall" is always mandatory and "may" indicates a use of discretion in making a decision. Whenever terms defined elsewhere in the Yakima County Code appear in this Title, they shall be given the meaning attributed to them.

16B.02.020 Administrative Official.

"Administrative Official" means the duly appointed Yakima County Planning Director or the director's designee. This term is synonymous with "Director" or "Administrator."

16B.02.030 Agency with Jurisdiction.

"Agency with Jurisdiction," for purposes of this Title, means any agency with authority to approve, veto, or finance, all or part of any project permit application as defined by this Title.

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16B.02.040 Board of County Commissioners.

"Board of County Commissioners," also abbreviated as "BOCC," or "Board," is the legislative authority of Yakima County.

16B.02.045 Buildable Land.

"Buildable Land," [REDACTED] means land within or near urban areas that is suitable and available for residential, commercial, and industrial uses and includes both vacant land and developed land that, in the opinion of the planning agency, i.e., the Planning Division together with its Planning Commission as defined in RCW 36.70.020(13)(b), is likely to be redeveloped.

16B.02.050 Closed Record Appeal.

"Closed Record Appeal" means an administrative appeal or hearing, conducted by the Board of County Commissioners following an open record hearing conducted by the Hearing Examiner on a project permit application. The appeal or hearing is on the record with only appeal argument allowed (~~((except the Board has the discretion to allow supplementation of the record upon a showing of good cause))~~). See also RCW 36.70B.020 (1).

16B.02.055 Day.

"Day" means calendar day, unless specified otherwise. For purposes of computing any period of time, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

16B.02.060 Decision Maker.

"Decision maker" means the person or body that is authorized by this Title to render the final decision on a project permit application. Table 3-1 herein designates the decision maker by project permit procedure type.

16B.02.070 Hearing Examiner.

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"Hearing Examiner" or "Examiner" means that person appointed by the Board of Commissioners. The Hearing Examiner shall conduct open record hearings on project permit applications replacing zoning adjuster, Board of Adjustment, or Planning Commission review of these applications.

16B.02.080 Open Record Hearing.

"Open record hearing" means a public hearing, conducted by the Hearing Examiner. The hearing creates the evidentiary record pursuant to procedures prescribed by ordinance or resolution. Open record hearings either result in a recommendation to the Board of Commissioners or a final decision on a project permit application, or constitute an appeal of an administrative decision on a project permit application. See also RCW 36.70B.020 (3).

16B.02.082 Optional Consolidated Permit Review.

"Optional consolidated permit review" means that process authorized by RCW 36.70B.060 and 36.70B.120 which is the integrated and consolidated review and decision on two or more project permits relating to a proposed project action, including a single application review and approval process covering all project permits requested by an applicant for all or part of a project action and a designated permit coordinator.

16B.02.085 Policy Plan Map.

"Policy Plan Map" means the official Future Land Use Map adopted in a comprehensive plan or sub-area plan. This definition includes any overlay maps adopted in a comprehensive plan or sub-area plan.

16B.02.090 Project Permit Application.

"Project permit," or "project permit application," or "project application," or "permit," means any land use or environmental permit or license required for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, ~~((special property))~~ conditional use permits, Shoreline permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or sub-area plan, but excluding the adoption or amendment of a comprehensive plan, sub-area plan, or development regulations except as otherwise specifically included in this ~~((Subsection))~~ Section. See also RCW 36.70B.020 (4).

16B.02.093 Public Meeting.

"Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit

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prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file. See also RCW 36.70B.020 (5).

16B.02.095 Reviewing Official.

"Reviewing Official" means Administrative Official, Building Official, Hearing Examiner, or the Board of County Commissioners, when engaged in any review or decision-making procedure under the provisions of the Titles of Yakima County Code listed in Section 16B.01.020 of this Title.

16B.02.100 SEPA.

"SEPA" refers to the State Environmental Policy Act, RCW 43.21C, as it now exists or is hereafter amended, and the Yakima County SEPA Ordinance, ~~((Title))~~ Chapter 16.04.

16B.02.105 Subdivision Exemption Authorization.

A "Subdivision Exemption Authorization" means that document issued by the Administrative Official which formally exempts a division of land, as defined by YCC Title 14, from full compliance with certain state and local land development laws and regulations as identified in the qualified exemption provisions of YCC Title 14.

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Chapter 16B.03 CLASSIFICATION BY PROJECT PERMIT TYPE

Sections:

- 16B.03.010 Introduction.
- 16B.03.020 ~~((Exemptions))~~ Project Permits Excluded from ~~((this Title))~~ Some Review Procedures.
- 16B.03.030 Project Permit Procedures – Defined.
- 16B.03.040 Classification of Project Permit Applications.
- 16B.03.050 Limitations on Open Record Public Hearings and Closed Record Appeals.
- 16B.03.060 ~~((Master Application))~~ Optional Consolidated Permit Review Process.
- 16B.03.070 Administrative Interpretations.
- 16B.03.080 Development Agreement Review Procedures. [New section]

16B.03.010 Introduction.

For the purpose of project permit processing, all development permit applications shall be classified as one of the following: Exempt, Type ~~((I))~~ 1, Type ~~((II))~~ 2, Type ~~((III))~~ 3, or Type ~~((IV))~~ 4. Legislative decisions are addressed in Sections 16B.01.030 – 16B.01.040. ~~((Actions exempt from the requirements of project permit application processing are listed in Section 16B.03.020.))~~

16B.03.020 ~~((Exemptions))~~ Project Permits Excluded from ~~((this Title))~~ Some Review Procedures.

~~((A.))~~ (1) All Type ~~((I))~~ 1 applications listed in Table 3-2, building permits or other construction permits, or other similar administrative approvals, ~~((which are))~~ categorically exempt from environmental review under SEPA ~~((RCW Chapter 43.21C and Title 16 of this code))~~, or for which environmental review has been completed in connection with other project permits, are excluded from the following procedures. See also RCW 36.70B.140.

~~((1) Determination of Completeness (Sections 16B.04.030 – 16B.04.060);))~~

~~((2))~~ (a) Notice of Application (Chapter 16B.05);

~~((3))~~ (b) ~~((Master application))~~ Consolidated permit review processing (Section 16B.03.060);

~~((4))~~ (c) Joint public hearings (Section 16B.08.070);

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~~((5))~~(d) Single report (Notice of Decision) stating all the decisions and recommendations made as of the date of the report (Chapter 16B.07)~~((5))~~ :

~~((6 Completion of project review within applicable time periods including the 120 day permit processing time (Chapter 16B.07).))~~

- (2) All of the review procedures listed in Subsection (1) of this Section apply to Type 1 and other project permits that are not categorically exempt from environmental review under SEPA, unless environmental review has been completed in connection with other project permits. See also RCW 36.70B.140.

16B.03.030 Project Permit Procedures - Defined.

~~((A))~~(1) The Administrative Official shall determine the procedural classification (Type ~~((I))~~ 1 - ~~((IV))~~ 4) for all development applications. If there is a question as to the appropriate procedure type, the Administrative Official shall resolve it in favor of the higher procedural classification.

~~((1))~~(a) Type ~~((I))~~ 1 applications involve ministerial actions and are exempt from public notice requirements. Type 1 applications that are not categorically exempt from environmental review under SEPA are subject to public notice requirements. Final determinations on the project permit shall be made by the Administrative Official without a prior public hearing. Final determinations on Type ~~((I))~~ 1 projects can be appealed to the Hearing Examiner. ~~((The Examiner's decision is subject to a closed record appeal to the Board of County Commissioners. Type I permits are often exempt from SEPA (State Environmental Policy Act) review.))~~

~~((2))~~(b) Type ~~((II))~~ 2 applications are administrative actions which may generate public interest. Public notice will be provided for Type ~~((II))~~ 2 actions. The final determination will be made by the Administrative Official. The Administrative Official's determination can be appealed to the Hearing Examiner. The Hearing Examiner's determination is subject to a closed record appeal to the Board of County Commissioners, except as provided in Subsection (2) below.

~~((3))~~(c) Type ~~((III))~~ 3 applications are quasi-judicial actions and require an open record hearing by the Hearing Examiner. The Examiner's written decision constitutes the final decision. The Hearing Examiner's determination is subject to a closed record appeal to the Board of County Commissioners, except as provided in Subsection (2) below. Public notice will be provided on Type ~~((III))~~ 3 actions.

~~((4))~~(d) Type ~~((IV))~~ 4 applications are quasi-judicial actions which require an open record hearing before the Hearing Examiner. The Examiner's written decision constitutes a recommendation to the Board of County Commissioners, except as provided in Subsection (2) below. The Board shall conduct a closed record

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hearing to act on the Examiner's recommendation. Public notice will be provided on Type ~~((IV))~~ 4 actions.

~~((5))~~(e) Final administrative decisions may be appealed to ~~((Washington State))~~ Superior Court pursuant to Section 16B.09.060 of this Code.

(2) SEPA decisions of the Hearing Examiner shall be final and binding and not subject to further administrative appeal even in the event that the underlying project permit application may be subject to further administrative appeal processes. Further appeal of the Hearing Examiner's decision on a SEPA administrative appeal shall be to Superior Court pursuant to Ch. 36.70C RCW, unless state law provides for a different appeal process.

~~((B))~~(3) Table 3-1 identifies the final decision maker, recommending body, hearing body, and appeal body for the four procedural types. Table 3-2 identifies the procedural classification for the various land use permits. Notice provisions for each procedural classification are contained in Table 5-1.

Table 3-1 Procedures for Type ~~((I))~~ 1, ~~((H))~~ 2, ~~((HH))~~ 3, and ~~((IV))~~ 4 Permit Applications

Process Type	Public Notice	Recommending Body	Open Record Hearing Body	Decision Maker	Appeal Body
Type ((I)) <u>1</u>	N/A	N/A	N/A	Administrative Official	Hearing Examiner ((#)) (Open Record Hearing)
Type ((H)) <u>2</u>	Yes	N/A	N/A	Administrative Official	Hearing Examiner ¹ (Open Record Hearing)
Type ((HH)) <u>3</u>	Yes	Administrative Official	Hearing Examiner	Hearing Examiner <u>1</u>	BOCC (Closed Record Hearing)
Type ((IV)) <u>4</u>	Yes	Hearing Examiner	Hearing Examiner	BOCC (Closed Record Hearing)	Superior Court

Note: ¹ Type 3 decisions and appeal determinations by the Hearing Examiner on Type ~~((I and H))~~ 2 applications may be further appealed to the Board of Yakima County Commissioners for a closed record appeal in accordance with YCC 16B.09.050. Appeal determinations of the Hearing Examiner on Type 1 appeals shall be final and binding and not subject to further

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administrative appeal. Final administrative decisions may be appealed to ~~((Washington State))~~
Superior Court pursuant to Ch. 36.70C RCW, unless state law provides for a different appeal
process.

16B.03.040 Classification of Project Permit Applications.

The following permits are subject to the decision making processes specified in Table 3-1 and Section 16B.03.030 of this Code.

Table 3-2 Table of Procedural Classifications

Title 14 - Yakima County Subdivision Code	
Application	Process Type
((Actions Exempt from Subdivision Code)) <u>Subdivision Exemption Authorization</u> ((Boundary line adjustments, financial segregations, etc.)))	Type ((I)) <u>1</u>
<u>Binding Site Plan</u>	<u>Type 4</u>
<u>Segregation within an Approved Commercial ((and)) or Industrial Binding Site Plan ((Developments)):</u>	Type ((I)) <u>1</u>
Short Plats:	Type ((H)) <u>2</u>
Preliminary ((Long)) Plats:	Type ((IV)) <u>4</u>
Final ((Long)) Plats:	N/A ⁽¹⁾
Variances:	Type ((H)) <u>3</u>

Title 15 - Yakima County Zoning Code or Title 15A - Yakima County Urban Growth Area Zoning Ordinance	
Application	Process Type
<u>Non-Conforming Use Expansion or Alteration⁽⁶⁾:</u>	Type ((H)) <u>3</u> ⁽⁵⁾
Minor Modification to a Planned Development:	Type ((I)) <u>1</u>
Major Modification to a Planned Development:	Type ((IV)) <u>4</u>
<u>Permitted or Class 1 Uses:</u>	<u>Type 1</u> ⁽²⁾
((Special Property)) <u>Administrative or Class 2 Uses:</u>	Type ((H)) <u>2</u> ⁽²⁾
<u>Conditional or Class 3 Uses:</u>	Type ((H)) <u>3</u>
<u>Modifications to existing or approved uses under YCC 15.70.030 or Chapter 15A.17:</u>	<u>Type 1</u>
Variances:	Type ((H⁽²⁾)) <u>3</u>
<u>Administrative Adjustments:</u>	<u>Type 2</u> ⁽²⁾

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<u>Master Planned ((Development)) Resort, Master Planned Development Overlay or Institutional Overlay:</u>	Type ((IV)) <u>4</u>
<u>Modification to a Master Planned Resort, Master Planned Development Overlay or Institutional Overlay:</u>	<u>Type 1 or 4, as determined by zoning code</u>
((Use District Reclassification)) <u>Site-specific rezones authorized by a comprehensive plan or subarea plan:</u>	Type ((IV)) <u>4</u>

((Title 15A – Yakima Urban Area Zoning Code	
Application	Process Type
Class One (1) Uses:	Type I
Class Two (2) Uses:	Type II ⁽²⁾
Class Three (3) Uses:	Type III
Modifications to Existing or Approved Class Two (2) and Three (3) Uses:	Type I
Non conforming Use Expansions:	Type III
Variances:	Type III
Rezones:	Type IV
Administrative Adjustments in non-residential Districts:	Type I
Administrative Adjustments in Residential Districts:	Type II))

((Title 16)) Chapter 16.04 - Yakima County SEPA Ordinance	
Application	Process Type
Environmental Review (SEPA Checklist)	Type ((H)) <u>2</u> ⁽⁴⁾

<u>Title 16A, 16C and 16D - Yakima County Critical Areas Ordinance and Yakima County Regional Shoreline Master Program</u>	
<u>Application</u>	<u>Process Type</u>
<u>Floodprone Permits</u>	<u>Type ((I)) <u>1</u></u>
<u>Floodprone Development Variances</u>	<u>Type ((H)) <u>2</u> ⁽²⁾</u>

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Standard Development Permits	Type ((I)) <u>1</u> ⁽³⁾
Substantial Development Permits	Type ((H)) <u>2</u> ⁽²⁾
<u>Adjustment</u>	<u>Type 2</u>
<u>Reasonable Use Exception</u>	<u>Type 3</u>
<u>Minor Revision</u>	<u>Type 1</u>
<u>Non-Conforming Use/Facility</u>	<u>Type 2</u> ⁽⁶⁾
<u>Shoreline Exemption</u>	<u>Type 1</u>
<u>Shoreline Conditional Use Permit</u>	<u>Type 2</u>
<u>Shoreline Variance</u>	<u>Type 2</u>

Notes:

- (1) Final plat applications are subject to determination of completeness as required by Section 16B.04.030 - 060. However, once the application is deemed complete, i.e. - all requirements of the preliminary plat resolution as signed by the BOCC have been met, the final plat is forwarded to the BOCC for signature at ~~((their))~~ its next regular agenda meeting.
- (2) ~~((Class Two (2)))~~ Type 2 review, ~~((Special Property))~~ Administrative Use applications, Floodprone (as defined in YCC Titles 16A, 16C and 16D) Development Variances, Zoning Variances, Administrative Adjustments and Substantial Development permits may be referred by the Administrative Official to the Hearing Examiner for final decision, ~~((rendering them))~~ in a manner similar to a Type ~~((H))~~ 3 application. Specific circumstances listed in locations such as YCC Chapter 15A.13 require Type 2 review for a Class 1 land-use application.
- (3) Standard Development permits under the Critical Areas Ordinance may be processed for final decision as Type ~~((H))~~ 2 project permits rather than as Type ~~((I))~~ 1 permits at the discretion of the Administrative Official.
- (4) SEPA ~~((reviews, other than a DS,))~~ determinations where the underlying permit is Type ~~((I))~~ 1 ~~((and there is no notice of application or))~~ shall be circulated to agencies with expertise or jurisdiction as defined in WAC 197-11-714 and listed in YCC 16B.05.030(3) but notice to ~~((adjoining))~~ adjacent property owners is not required ~~((shall be processed as a Type I)).~~
- (5) The term "alteration" does not include intensification. Nonconforming use expansions and alterations under YCC Title 15 are categorized as Type 2 applications.
- (6) No additional critical area or Shoreline review required if reconstruction cost of a nonconforming use or facility is less than 75 percent of value before damage or destruction.

16B.03.050 Limitations on Open Record Public Hearings and Closed Record Appeals.

Except for the appeal of a SEPA Determination of Significance, no more than one consolidated open record appeal or hearing may occur on SEPA threshold determinations or project permit decisions and no more than one consolidated closed record appeal or hearing may occur on ~~((a single))~~ project permit ~~((application or master application))~~ decisions.

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16B.03.060 ~~((Master Application))~~ Optional Consolidated Permit Review Process.

~~((An application that involves t))~~ Two or more ~~((procedures shall))~~ project permits relating to a proposed project action may be processed collectively under the highest numbered ~~((procedure))~~ category of project permit required for any part of the ~~((application))~~ proposal or processed individually under each of the procedures identified by the code. The applicant may determine whether the ~~((application))~~ project permits shall be processed collectively or individually. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to and separately from the subsequent lower numbered procedure. Construction permits may be issued only after all other required land-use decisions have been made and all applicable appeal periods have passed.

16B.03.070 Administrative Interpretations.

Upon request the applicable official designated in Subsections 2 through 4 of this Section shall issue a formal written interpretation of a development regulation. The purpose of an interpretation is to clarify conflicting or ambiguous wording or the scope or intent of the County Code.

(1) The interpretation request shall be on a form provided by the Planning ~~((department))~~ Division and shall include identification of the regulation in question, a description of the property (if applicable), ~~((and))~~ a clear statement of the issue or question to be decided, a statement addressing why an interpretation is necessary and shall set forth a legal and factual basis in support of the proposed interpretation. ~~((Formal written interpretations shall be Type I actions, unless otherwise specified, and as such may be appealed to the Hearing Examiner (Table 3-1))).~~

~~((A))~~(2) The Administrative Official or his/her designee, shall interpret and apply the provisions of YCC Title 14 - Subdivision Code, Title 15 County Zoning Code, Title 15A - Yakima County Urban Growth Area Zoning Ordinance, Title 16 ~~((SEPA))~~ Environment, ~~((and))~~ Titles 16A and 16C - Critical Areas Ordinances, Title 16B - Project Permit Administration, and Title 16D - Yakima County Regional Shoreline Master Program. Interpretations shall be first presented to the Administrative Official but are subject to appeal to the Hearing Examiner.

(3) The Administrative Official is authorized to determine whether a proposed use is not classified in any category of the land use table but is consistent in character with the purpose of the zoning district.

~~((B))~~(4) The Hearing Examiner shall issue unclassified use interpretations regarding any provisions of the Yakima County Urban Growth Area Zoning Code (Title 15A) ~~((or Urban Area Zoning Map))~~, as specified by Chapter 15A.22, and any interpretation

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matter referred by the Administrative Official. The Hearing Examiner shall determine when a hearing is required for such interpretations. Interpretations by the Hearing Examiner are final and not subject to further administrative appeal.

- (5) An interpretation of the provisions of a development regulation shall not be used to amend any development regulation in Yakima County Code, such as any provision affecting required location of land uses or review requirements. Administrative interpretations may be specific to the fact situation presented in the request for the interpretation and therefore may not apply to circumstances or situations other than that considered in the interpretation.
- (6) In making an interpretation of the provisions of the development regulation, the Reviewing Official shall state the analysis and reasons upon which the interpretation is based in considering the following factors:
 - (a) The applicable provisions of development regulations in Yakima County Code including their purpose and context; and
 - (b) The impact of the interpretation on other provisions of Yakima County Code; and
 - (c) The implications of the interpretation for development within the County as a whole; and
 - (d) The applicable provisions of the Comprehensive Plan and other relevant codes and policies; and
 - (e) Any other factors the Reviewing Official wishes to consider.

16B.03.080 Development Agreement Review Procedures. [New section]

- (1) The County may enter into a development agreement with a person having ownership or legal control of real property within its jurisdiction or outside its jurisdiction as part of an outside utility service agreement. A development agreement sets forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.
- (2) Notice of the hearing shall be provided by publishing in a newspaper of general circulation within the County in the manner prescribed for project permits in YCC 16B.05.030.
- (3) The determination of completeness under YCC 16B.04.030, notice of decision under YCC 16B.07.010 and time frame of YCC 16B.07.030 do not apply to development agreements.
- (4) When a request for a development agreement is consolidated with a Type 3 or 4 project permit, the public hearing shall be consolidated with the open-record hearing on the permit before the Hearing Examiner. The Hearing Examiner shall make a

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recommendation to the BOCC on the development agreement and approval of the project permit shall be conditioned on BOCC approval of the development permit.

(5) The BOCC may approve a development agreement by ordinance or resolution only.

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Chapter 16B.04 APPLICATION PROCESS

Sections:

- 16B.04.010 Pre-application Conference.
- 16B.04.020 ~~((Project Permit))~~ Application, Withdrawal of Application and Refunds.
- 16B.04.030 Determination of Completeness.
- 16B.04.040 "Complete" Application – Additional Information.
- 16B.04.050 Incomplete Application Procedure.
- 16B.04.060 Date of Acceptance of "Complete" Application.
- 16B.04.070 Identification of Other Agencies with Jurisdiction.

16B.04.010 Pre-application Conference.

~~((A))~~(1) Prior to formal submittal of a project permit application, an applicant may obtain early assistance from County staff through informal conversations or on-site visits. In addition, one or more ~~((optional))~~ conferences with appropriate County department representatives and other public agency representatives may be requested by the applicant, required by ordinance, or required at the discretion of the Administrative Official. The date, time and place of such conferences shall be at the mutual agreement of the participants. While pre-application conferences are optional on ~~((all))~~ some application types, applicants for Type ~~((III))~~ 3 and ~~((IV))~~ 4 project permits, legislative actions described in YCC Chapter 16B.10, linear transmission facilities, critical areas and Shoreline permits are ~~((strongly encouraged))~~ required to request this exploratory conference ~~((if one is not required as part of the permit process)).~~ The Administrative Official may waive in writing the requirement for a pre-application conference, upon written request by the owner or authorized prospective applicant, for projects that the Administrative Official determines are of a size and complexity to not require the detailed analysis of a pre-application conference, notwithstanding any provision of this Code to the contrary.

~~((B))~~(2) Such conferences are intended as an informal discussion and review of possible applications to assist the applicant in discovery of appropriate county regulations, standards, application materials and review processes that would be required of a project. The pre-application conference is intended to provide an applicant with preliminary direction regarding the required content of the proposed application. However, the conference is not intended to provide an exhaustive review of all the potential issues that a given application could raise. A pre-application conference shall

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not include extensive field inspection or correspondence. The pre-application review does not prevent the County from applying all relevant laws to the application and does not constitute an approval of the project. The discussion at the conference and the information provided shall not bind or prohibit the County's future application or enforcement of all applicable laws and regulations.

~~((C))~~(3) Such conferences are not publicized and the public is not permitted to attend in order that a potential applicant's interests be protected.

~~((D))~~(4) A request for a pre-application conference is initiated by completing a pre-application form supplied by the Planning ~~((department))~~ Division. The submittal requirements for pre-application conferences shall include a site plan of the entire project, a written narrative describing the proposal, other information as specified by the Administrative Official, and any additional information that the applicant wishes to provide.

~~((E))~~(5) The conference will ~~((generally))~~ be held within ~~((twenty one))~~ thirty days of the pre-application conference request. The applicant shall be informed of the time and place of the meeting using the contact information provided on the pre-application conference request form.

~~((F))~~(6) A pre-application conference does not vest a proposed project permit application. Pre-application submittals or materials do not constitute project permit applications. All project permit applications are vested under ~~((current))~~ relevant County ~~((standards and requirements))~~ codes in effect at the time of filing a completed application.

16B.04.020 ((Project Permit)) Application, Withdrawal of Application and Refunds.

(1) Applications for project permits shall be submitted upon forms provided by the Administrative Official. An application shall consist of all materials required by the applicable development regulations, and shall include the following general information.

- (a) A completed project permit application form signed by the owner(s) of the property;
- (b) The completed application will identify a single contact person or entity to receive determinations and notices required by this Chapter;
- (c) All other items listed as application requirements in the relevant Sections of the ~~((Yakima County Code Titles 14, 15, 15A, 16, and 16A))~~ ordinance requiring review;
- (d) ~~((An Assessor's parcel number and/or legal description of))~~ A site plan showing all parcels containing the site for all applications, as required by the applicable development regulations;

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- (e) The applicable fee;
 - (f) Any SEPA documents, as applicable.
- (2) Who May Apply. Application for the various types of permits and approvals covered by this Code may be made by the following parties:
- (a) Subject to the requirements of this Subsection, the property owner or any agent of the owner with proof of agency may apply for a Type 1, 2, 3, or 4 permit or for a site-specific rezone requiring a policy plan map amendment not involving a change to Urban Growth Area boundaries. If the application is for revision to a preliminary plat, or alteration of a final plat, the application must be signed by a majority of those persons having an ownership interest in the lots, tracts, parcels, or portion thereof to be revised or altered. If a final plat is subject to restrictive covenants which were filed at the time of the approval of the plat, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement, with notarized signatures signed by all persons subject to the covenants, providing that those persons agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the plat or portion thereof. An application for vacation of a final plat is subject to the requirements of RCW 58.17.212.
 - (b) A resident of the dwelling may apply for a home occupation permit.
 - (c) Any person may apply for an interpretation pursuant to YCC 16B.03.070. In addition, the Administrative Official may issue interpretations of the County Code as needed.
 - (d) Any person may apply to propose a non-site-specific amendment to the Comprehensive Plan pursuant to the biennial procedure for consideration of Comprehensive Plan amendments set forth in YCC Chapter 16B.10.
 - (e) The Board of County Commissioners may direct staff to pursue the study or amendment to the Comprehensive Plan and development regulations. The Planning Commission or the Administrative Official may recommend a comprehensive plan amendment, site-specific or area-wide rezone, or amendment to the text of any development regulation to the Board.
- (3) An applicant may formally withdraw a project permit application upon written request directed to the Administrative Official.
- (4) A request for a refund of a project permit application fee, except those issued pursuant to Title 12 or 13 of this Code, must be made in writing to the Planning Division. It shall be provided to the Planning Division prior to the issuance of a final decision by the Reviewing Official and within ninety days of the date the applicant is notified of the Administrative Official's determination of completeness pursuant to Section 16B.04.030 of this Chapter. The written request will include a basis for the refund,

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will identify the project for which the refund is requested, and the request must come from the same person or entity that paid the fee, or authorized agent specified on the application. If a fee is collected in error, the applicable fee will be refunded. All other refunds are reviewed and awarded at the discretion of the Administrative Official or his designee, and in any amount the Official or his designee determines to be appropriate.

16B.04.030 Determination of Completeness.

~~((Within twenty eight calendar days after receiving a project permit application, the Administrative Official shall mail or personally provide a written determination to the applicant which states either:~~

- ~~1. That the application is complete; or~~
- ~~2. That the application is incomplete and what is necessary to make the application complete.~~

~~A project permit application shall be deemed complete if the Administrative Official fails to provide the determination of completeness within the specified time period.))~~

The Administrative Official shall determine whether a project permit application is complete and provide notice to the applicant in accordance with the procedure in RCW 36.70B.070.

16B.04.040 "Complete" Application -- Additional Information.

A project permit application shall be deemed complete for purposes of this Section when it meets the submission requirements specified in Section 16B.04.020 above, as well as the submission requirements contained in the applicable development regulations. This determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The Administrative Official's determination of completeness shall not preclude the County from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action.

16B.04.050 Incomplete Application Procedure.

~~((A)) (1) If the applicant receives a determination from the Administrative Official that an application is not complete, the applicant shall have ninety days to submit the necessary information.))~~ Within fourteen days after an applicant has submitted ~~((the))~~ requested additional information, the Administrative Official shall make the

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determination of completeness as described in Section 16B.04.030 above, and notify the applicant in the same manner.

~~B — If the applicant either refuses in writing to submit additional information or does not submit the required information within the ninety day period, the application shall lapse and become null and void.~~

~~C — In those situations where the application has lapsed because the applicant has failed to submit the required information within the necessary time period, the applicant may request a refund of the unused portion of the application fee unrelated to the County's determination of completeness.))~~

(2) A project permit application for which a decision has not yet been made may be canceled for inactivity if the County returns the application for modification or correction (including a request for additional information for an incomplete or complete application) and the applicant fails to respond to the County's request within forty-five days of the request.

16B.04.060 Date of Acceptance of "Complete" Application.

When the project permit application is complete, the Administrative Official shall accept it and note the date of acceptance.

16B.04.070 Identification of Other Agencies with Jurisdiction.

To the extent known by the Administrative Official, other agencies with jurisdiction over the project permit application shall be identified in the County's determination of completeness required by Section 16B.04.030.

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Chapter 16B.05 PUBLIC NOTICE

Sections:

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

16B.05.010 Notice of Application.

- ~~((A))~~(1) Yakima County shall issue a notice of application on all Type ~~((II))~~ 2, ~~((III))~~ 3, and ~~((IV))~~ 4 project types within fourteen (14) days after the County has made a determination of completeness on the project permit application.
- ~~((B))~~(2) ~~((On Type I, SEPA categorically exempt projects and those projects for which SEPA is required but none of the other underlying required permits are subject to such notice,~~
a)) Yakima County shall issue a Notice of Application ((will not be required unless)) within fourteen days of the County's determination of completeness for projects for which a comment period or an open record pre-decision hearing is required as part of a ((master application)) consolidated permit review process as described in Section 16B.03.060 of this Code.
- ~~((C))~~(3) For projects not exempt from environmental review under SEPA, the notice of environmental review and determinations shall be provided in accordance with this Chapter, Chapter 16.04 and Chapter 16B.06 of this Code, including a required notice of application. If the highest numbered permit underlying the SEPA review is a Type 1 permit, construction permit or another similar administrative permit or license, the notice of application shall be issued using the method identified in YCC 16B.05.030(1) within fourteen days of the County's determination of completeness.
- (4) If an open record pre-decision hearing is required for the requested project permit(s), the Notice of Application shall be provided at least fifteen days prior to the open record hearing.

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- (5) The applicant shall be responsible for providing services or materials to assist the County in carrying out the public notice requirements as requested, such as posting the site.
- (6) The applicant shall be responsible for the following costs of providing public notice:
- (a) Postage fees;
 - (b) Publication fees;
 - (c) Photocopies and printing costs; and
 - (d) Documented staff time involved in preparing, sending and implementing notice procedures.

16B.05.020 Contents of Notice of Application and Other Notices.

The Notice of Application and other notices required in this Chapter shall include the items required by RCW 36.70B.110 (2) and the following:

- ~~((A The date of application, the date of the notice of completion for the application and the date of the Notice of Application;~~
- ~~B A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested to make the application complete;~~
- ~~C The identification of other permits not included in the application, to the extent known by the County;~~
- ~~D))~~(1) For projects subject to SEPA review, the Notice of Application may include a preliminary SEPA determination if one has been made at the time pursuant to RCW 36.70B.060 and WAC 197-11-355; ~~((and, the location where the completed SEPA environmental checklist and any existing environmental documents that evaluate the proposed project may be reviewed;))~~
- ~~((E))~~ (2) A statement of the limits of the public comment period, which shall be fourteen calendar days following the date of the Notice of Application, unless a greater comment period is required by state law, except that a 30-day comment period shall be provided to the installation commander of the Yakima Training Center in the event of any project permit or action located within 500 feet of the perimeter of the Yakima Training Center. Nothing in this Section shall preclude the County from accepting public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

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~~((F) Statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;~~

~~G The date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;~~

~~H A statement of the preliminary determination of consistency as provided in Chapter 16B.06, if one has been made at the time of the issuance of the Notice of Application, and of those development regulations that will be used for project mitigation; and~~

I)(3) If the County as lead agency has a reasonable basis for determining that significant adverse environmental impacts are unlikely at the outset of project permit application review, the optional process under RCW 36.70B.060 and WAC 197-11-355 may be used to combine the comment periods on the Notice of Application and SEPA. In such instances, a second comment period under SEPA will typically not be required when the threshold determination is issued. Where the optional process is used, the contents of the notice of application shall include the items required by WAC 197-11-355(2)(a) and (b). ((:

~~1 State on the first page of the notice that the optional process is being used and that the County expects to issue a DNS, and that:~~

~~a. This comment period may be the only opportunity to comment on the environmental impacts of the proposal;~~

~~b. The proposal may include mitigation measures under applicable codes and the project review may incorporate or require mitigation measures regardless of whether an EIS is prepared;~~

~~c. A copy of the subsequent threshold determination for the specific proposal may be obtained upon request;~~

~~2 List in the Notice of Application the conditions being considered to mitigate environmental impacts if a mitigated DNS is expected;))~~

The Notice of Application and environmental checklist shall be circulated as required under Title 16 of this Code and shall be subject to the notice requirements of this Title.

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

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

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

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

~~((B))~~(2) Table 5-1 may require more than one type of notice for some applications. In the case of conflicts between Table 5-1 below and other notice provisions contained in other Titles of Yakima County Code ((Title 14, Title 15, Title 15A, Title 16, Title 16A and Table 5-1)) or provisions in State law, the most lengthy and greater notice requirements shall apply.

Table 5-1 Notice of Environmental Review and Notice of Application or Proposal - Method of Public Notice

Application Type	((1st Class)) Mailing ⁽²⁾	Posting of Property	Published in Newspaper
Type ((I)) 1	No ^{(1), (3)}	No	No ⁽⁴⁾
Type ((II)) 2	Yes ((3)) ⁽¹⁾	No	No ⁽⁴⁾
Type ((III)) 3	Yes	Yes	Yes
Type ((IV)) 4	Yes	Yes	Yes
<u>Development Agreement</u>	<u>No</u>	<u>No</u>	<u>Yes</u>
<u>Site-specific policy plan map amendment</u>	<u>Yes</u> ⁽⁴⁾	<u>Yes</u>	<u>Yes</u>
<u>Legislative action</u>	<u>Yes</u> ⁽⁵⁾	<u>No</u>	<u>Yes</u>

Notes:

- (1) In case of an open record appeal hearing of a Type ~~((I))~~ 1 or Type ~~((II))~~ 2 project permit, notice will be provided to property owners ~~((within 300 ft. of the project site))~~ described in Subsection (3)(a)(i) of this Section.

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- (2) Project permits and other actions that are subject to environmental review (SEPA) shall have the threshold determination and checklist associated with the project permit ~~((published in a newspaper of general circulation))~~ or action circulated to the applicant and to agencies with jurisdiction or expertise as defined in WAC 197-11-714 and listed in Subsections (3)(a)(iii) through (vi) of this Section.
- (3) If the underlying permit is a Type ~~((4))~~ 1, road approach, grading or building permit for which no other project permit application is required, APO notice ~~((of))~~ of a SEPA determination shall not be required.
- (4) Notice of site-specific policy plan map amendment proposals shall be provided according to YCC 16B.10.080 and to adjacent property owners described in Subsection (3)(a)(i) of this Section.
- (5) Notice of policy plan map amendments and text amendments described in YCC Chapter 16B.10 shall be provided according to YCC 16B.10.080.

~~((G))~~(3) Notice of Application or Notice of Site-Specific Policy Plan Map Amendment -
~~((First-Class))~~ Mailing.

~~((4))~~(a) When required, written notice of the application or amendment will be sent ~~((through first class mail))~~ as specified in Subsection (c) below by the Planning ~~((department))~~ Division to the following parties:

~~((a))~~(i) Adjacent property owners (APO) of real property, as listed on the most current Yakima County Assessor records, located as follows:

- (A) For all project permits or site-specific amendments, notice of the proposal shall be sent to all owners of property located within 300 feet of any portion of the boundary of the proposed project permit application or amendment site. If the owner of the proposed project permit or amendment site also owns another parcel or parcels of real property adjacent to the proposed project permit or amendment site, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the proposed project permit or amendment site;
- (B) For linear transmission facility projects, notice of the proposal shall be sent to all owners of property located within 660 feet from the centerline of the linear transmission facility;
- (C) Where establishing a Mining Zoning District, notice of the proposal shall be sent to all owners of property located within one-half mile of the boundaries of the subject property, or of the boundaries of any contiguous properties under the same mining operation, and to owners adjacent to any private access roads that would serve as haul roads;
- (D) Where establishing or modifying a mineral batching, processing or mining/site operation, notice of the proposal shall be sent to

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all owners of property located within one-half mile of the boundaries of the subject property, or of the boundaries of any contiguous properties under the same mining operation, and to owners adjacent to any private roads that would serve as haul roads.

- ~~((b))~~(ii) The contact person for the permit application;
 - ~~((e))~~(iii) Interested or affected public agencies with jurisdiction;
 - ~~((d))~~(iv) Affected Indian tribes; ~~((and))~~
 - ~~((e))~~(v) Cities or towns within one mile of the proposal ~~((:))~~ ; and
 - (vi) The installation commander of the Yakima Training Center in the event of any project permit or action located within 500 feet of the perimeter of the Yakima Training Center.
- ((2))(b) If the open record hearing date is not specified in the Notice of Application or notice of proposed policy plan map amendment, a second notification listing the open record hearing date must be sent through first-class mail, electronic mail or postcard at least fifteen days prior to the first public hearing on Type 3 and Type 4 project applications, or at least ten days prior to a public hearing before the Planning Commission or BOCC on site-specific plan amendment proposals. This notice must be sent to those parties who were originally ~~((mailed))~~ sent a Notice of Application or amendment.
- (c) The written Notice of Application shall be sent through first-class mail, postcard, electronic mail or any combination of these methods.

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

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~~((E))~~(5) Publication Notice. When required, ~~((the Notice of Application))~~ public notice of project permit applications and site-specific policy plan map amendments shall be published in a newspaper of general circulation in the general area of the proposal. ~~((or))~~ Notice of a project permit application may be published in a local land use newsletter published by Yakima County in lieu of publication in a newspaper of general circulation. The notice shall be published once, at least fifteen days prior to the date of the first public hearing on the underlying project permit or at least ten days prior to a public hearing before the Planning Commission or BOCC for legislative actions described in YCC Chapter 16B.10. This notice shall include the project location or other description of the site in other than a legal description, a brief description of the project, type of permit(s) required, comment period dates, hearing dates if applicable, and a location where the complete application may be reviewed.

~~((F))~~(6) Closed Record Public Hearing Notice. Public notice of closed record public hearings and closed record appeals will be provided ~~((by first class mailing to parties of record as defined by Section 16B.09.020B))~~ in accordance with Section 16B.05.050 of this Chapter.

16B.05.040 Public Comment on the Notice of Application.

All public comments received by the Planning ~~((department))~~ Division by ~~((5:00 p.m.))~~ close of business on the last day of the comment period must be considered. Comments may be mailed, personally delivered or sent by facsimile.

Comments should be as specific as possible.

16B.05.050 Public Notice of Closed Record Hearings and Appeals.

Public notice of closed record appeal hearings will be provided by first-class, electronic or postcard mailing to "parties of record" only as defined by Section 16B.09.020~~((B))~~ (2) of this Title. The public notice shall state the limitation of the period for submittal of written memoranda of authorities in accordance with Sections 2.23.140 and 16B.09.055 of this Code.

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Chapter 16B.06 CONSISTENCY ANALYSIS AND SEPA INTEGRATION

Section:

- 16B.06.010 ~~((Determination of))~~ Scope of Project Review/Project Consistency.
- 16B.06.020 Project Consistency ~~((Analysis))~~.
- 16B.06.030 SEPA Integration – Purpose.
- 16B.06.040 Use of Existing Environmental Documents.
- 16B.06.050 Planned Actions.
- 16B.06.060 Issuance of SEPA Threshold Determinations.
- 16B.06.070 Appeals of SEPA Determinations.

16B.06.010 ~~((Determination of))~~ Scope of Project Review/Project Consistency.

- (1) Fundamental land use planning choices made in the adopted comprehensive plans and development regulations shall serve as the foundation for project review. ~~((As part of project review, the Reviewing Official will determine if a proposed project is consistent with Yakima County's applicable development regulations, or in the absence of applicable regulations the adopted comprehensive plan. This consistency review will consist of a review of the type of land use(s) permitted at the site, the level of development allowed, infrastructure analysis, and the character of the development.))~~The review of a proposed project's consistency with applicable development regulations and the adopted comprehensive plan shall serve as the starting point for project review. Land use permit review shall not reanalyze these land use planning choices in making a permit decision.
- (2) The Reviewing Official may determine through the local project review process that existing requirements including mitigation measures in applicable development regulations and plans and other applicable laws provide adequate mitigation for some or all of a project's specific adverse environmental impacts.
- (3) Project review shall be used to:
 - (a) Review and document consistency with comprehensive plans and development regulations;
 - (b) Provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including

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- mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level;
- (c) Ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.
 - (d) Identify specific project design and conditions relating to the characteristics of a development;
 - (e) Identify specific adverse environmental impacts of the proposal not previously analyzed; and
 - (f) Address the details of site plans, curb cuts, drainage swales, transportation demand management, or other measures to avoid or otherwise mitigate a proposal's probable adverse environmental impacts.
- (4) Nothing in this Title limits the authority of the County to approve, condition, or deny a project as provided in its adopted development regulations and in its policies adopted under RCW 43.21C.060 (SEPA) and Chapters 90.58 (Shoreline Management Act) and 36.70A RCW (Growth Management Act).

16B.06.020 Project Consistency ((Analysis)).

- ~~((A. Consistency should be determined in the project review process by considering four factors found in applicable plans and regulations::~~
- ~~1. The type of land use permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;~~
 - ~~2. The level of development, such as units per acre, density of residential development, or other measures of density;~~
 - ~~3. The availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW; and,~~
 - ~~4. The character of the development, such as development standards.~~
- ~~B. In determining consistency, the determinations made pursuant to this Title shall be controlling.~~
- ~~C. During project review, Yakima County or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in Subsection A of this Section, except for issues of code interpretation.))~~

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The County shall incorporate the elements of RCW 36.70B.040 in its project review. This Chapter does not apply to the County's enforcement procedures.

16B.06.030 SEPA Integration - Purpose.

Environmental review for projects determined not to be categorically exempt under SEPA (RCW 43.21C and Yakima County Code Chapter 16.04) shall be integrated and run concurrently with the permit procedures of this Title.

16B.06.040 Use of Existing Environmental Documents.

As provided by ~~((Section 16.04.085))~~ WAC 197-11-158, the Administrative Official may determine that existing comprehensive plans, sub-area plan elements of a comprehensive plan, development regulations, or other local, state or federal rules or laws provide adequate analysis and mitigation of the specific probable adverse environmental impacts of a proposed action.

16B.06.050 Planned Actions.

Projects defined as "planned actions" under ~~((Section 16.04.087))~~ WAC 197-11-164, 168 and 172 do not require a threshold determination or the preparation of an environmental impact statement under RCW Chapter 43.21C, but are subject to environmental review and mitigation as provided in the course of project review.

16B.06.060 Issuance of SEPA Threshold Determinations.

~~((A))~~(1) Expiration of Notice of Application Comment Period. Except for a Determination of Significance (DS), Yakima County may not issue its SEPA threshold determination or issue a decision or a recommendation on a project permit until the expiration of the public comment period on the Notice of Application.

~~((B))~~(2) Preliminary SEPA Determination and Notice of Application. To integrate project and environmental review under SEPA and to encourage early public comment on project applications, a preliminary SEPA determination may be provided by the Administrative Official with the Notice of Application if such preliminary SEPA determination has been made at the time the Notice of Application is issued pursuant to the optional process in RCW 36.70B.060 and WAC 197-11-355. This preliminary SEPA determination may not substitute for the actual SEPA threshold determination, although the comment period for SEPA and the Notice of Application may be

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consolidated into a single fourteen-day comment period, as provided in Section 16B.05.020 above.

~~((C))~~(3) SEPA Determination of Significance (DS) and Notice of Application. If Yakima County has made a SEPA Determination of Significance (DS) concurrently with the Notice of Application, the Notice of Application shall be combined with the Determination of Significance and scoping notice. Nothing in this Subsection prevents a Determination of Significance and scoping notice from being issued prior to a Notice of Application.

~~((D))~~(4) Public Hearing on Project Permit. If an open record pre-decision hearing is required on the underlying project permit application, Yakima County shall issue its threshold determination at least fifteen days prior to the open record pre-decision hearing.

(5) A SEPA determination shall be deemed to be conclusively in compliance with SEPA, the SEPA rules, and the provisions of YCC Chapter 16.04, unless a SEPA appeal is filed in accordance with this Chapter or Chapter 36.70C RCW.

16B.06.070 Appeals of SEPA Determinations.

Administrative SEPA appeals to the Hearing Examiner only are hereby established. It is the purpose of this Section to combine environmental considerations with public decisions, and for this reason, any appeal brought under this Section shall be linked to a specific governmental action. Appeals under this Section are not intended to create a cause of action unrelated to a specific governmental action. The administrative appeal procedures provided by this Section shall be construed consistently with RCW 43.21C.075, Chapter 36.70B RCW, and WAC 197-11-680.

~~((A))~~(1) Types of Appeals. ~~((Threshold))~~ Appeals under the provisions of this Section shall be limited solely to procedural determinations listed in Subsection 16B.06.070(1)(a) below and/or substantive determinations, as defined in YCC 16.04.040(6), within those procedural determinations listed below. Administrative appeals of threshold determinations on Type 1 or 2 project permits or on legislative actions are not allowed.

(a) Only one consolidated administrative appeal proceeding on threshold determinations consisting of a Determination of Non-significance (DNS), Mitigated Determination of Non-significance (MDNS), or Determination of Significance (DS) ~~((may be appealed))~~, or on a determination of adequacy of a final environmental impact statement (EIS), is authorized pursuant to RCW 43.21C.075.

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- (b) Procedural appeals are limited to those challenging the Responsible Official's compliance with the provisions of SEPA, the SEPA rules, and YCC Chapter 16.04 with respect to the threshold determination.
 - (c) The opportunity for administrative appeals of substantive determinations shall be limited to the appeal period following the procedural determinations listed in Subsection 16B.06.070(1)(a) above.
 - (d) No administrative appeals shall be allowed at other times for other actions and/or determinations taken or made pursuant to YCC Chapter 16.04 (such as lead agency determination, a determination that a proposal is categorically exempt, scoping, draft EIS adequacy, etc.).
- ((B))(2) Hearing Examiner. All appeals shall be heard by the Hearing Examiner in an open record hearing. ~~((The Hearing Examiner's decision on the SEPA appeal may be appealed to the Board of County Commissioners at a closed record appeal hearing.))~~ The decision of the Hearing Examiner on a SEPA appeal shall be final and binding and not subject to further administrative appeal. Further appeal of the Hearing Examiner's decision on a SEPA administrative appeal shall be to Superior Court pursuant to Chapter 36.70C RCW, unless State law provides for a different appeal process. This Section formally eliminates SEPA administrative appeals to the Board of County Commissioners. Such appeals are subject to the provisions of Chapters 16B.08 and 16B.09 of this Title and the Hearing Examiner's adopted rules and procedures.
- ((G))(3) Consolidated Appeals:
- ((1))(a) All allowed SEPA-related appeals, other than of a DS, shall be consolidated with the open record hearing ~~((or appeal, if any,))~~ on the underlying project application in a single simultaneous hearing before the Hearing Examiner where he will consider either the Administrative Official's decision or a recommendation on the proposed underlying governmental action. If no hearing on the underlying governmental action is otherwise provided, then no SEPA appeal is allowed under this Section, except as allowed under Subsection (b) of this Subsection.
 - ((2))(b) DS appeals shall be heard in a separate open record hearing prior to the open record hearing, if applicable, on the underlying project application. The purpose of this early and separate appeal hearing is to resolve the need for an environmental impact statement (EIS), and to permit administrative and judicial review, prior to preparation of an EIS.
- ((D))(4) Notice of Appeal – Timing and Contents.
- ((1)) All SEPA appeals provided under this Section shall be filed in writing with the Yakima County Planning ~~((department))~~ Division, shall comply with the appeal period timing and content requirements of YCC 16B.09.010 and shall be accompanied

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by the filing fee established by ~~((Section 16.04.280))~~ YCC Title 20. Such appeals must identify specific SEPA actions, omissions, conditions or determinations.

~~((2 The Notice of Appeal shall identify the appellant, establish standing, and set forth the principal points of the appeal.~~

~~3 The Notice of Appeal shall be filed no later than fourteen calendar days after the threshold decision has been issued, unless the threshold determination was issued concurrently with the final decision on the underlying project permit and the threshold determination was issued subject to a fourteen day comment period. In that case, a joint twenty one calendar day appeal period shall be provided on both the project decision and the SEPA threshold determination.~~

~~4 If the optional process is exercised, and the County determines that no additional comment period is warranted, the appeal process for SEPA and the underlying decision shall be fourteen calendar days.))~~

~~((E))~~(5) Administration – Standard of Review.

~~((1))~~(a) Any open record hearing shall be recorded or transcribed.

~~((2))~~(b) All testimony shall be sworn.

~~((3))~~(c) The Hearing Examiner shall issue a written decision containing findings and conclusions.

~~((4))~~(d) The determination of the Responsible Official shall carry substantial weight, and the appellant shall bear the burden to establish a violation of SEPA, the SEPA rules, or the provisions of YCC Chapter 16.04.

~~((5))~~(e) The Hearing Examiner may:

(i) affirm the determination of the Responsible Official where the Hearing Examiner determines that no violation of SEPA, the SEPA rules, or the provisions of YCC Chapter 16.04 exists,

(ii) modify the determination of the Responsible Official, ~~((or))~~

(iii) reverse the determination of the Responsible Official, and may issue a revised DS, DNS or MDNS, ~~((The Hearing Examiner may also))~~

(iv) request additional information pursuant to WAC 197-11-335 ~~((;))~~, and continue the hearing pending the delivery of such information within a specified time frame, or

(v) remand to the Responsible Official with a recommendation as appropriate. The decision of the Hearing Examiner to remand the SEPA determination shall be a final administrative decision not subject to further administrative appeal.

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Chapter 16B.07 FINAL DECISIONS

Sections:

- 16B.07.010 Notice of Decision – Public Notice.
16B.07.020 ~~((Notice of Decision – Public Notice.))~~ Reserved.
16B.07.030 Notice of Decision – Time Frames.
16B.07.040 Exceptions from 120-day Time Period.
16B.07.050 Compliance, Extension, Expiration and Reinstatement. [New section]

16B.07.010 Notice of Decision – Public Notice.

The Notice of Decision shall be a single report which complies with RCW 36.70B.130 and states all the decisions made on all project permits that are a part of the application. The County shall provide notice of its decision by first-class mail, postcard, electronic mail or any combination of these methods to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application in accordance with RCW 36.70B.130. The Notice of Decision shall state any mitigation required under applicable development regulations or under SEPA. If a SEPA threshold determination has not been issued previously by the local government, the Notice of Decision shall include this determination. Notice of administrative appeal procedures, if applicable, shall also be included in the Notice of Decision.

16B.07.020 ~~((Notice of Decision – Public Notice.))~~ Reserved.

~~((A. The Notice of Decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.~~

~~B. The Notice of Decision shall be provided by first class to those same parties and entities who were provided a Notice of Application.))~~

16B.07.030 Notice of Decision – Time Frames.

~~((A))~~(1) The Notice of Decision shall be issued within one hundred twenty calendar days after the County notifies the applicant that the application is complete, except preliminary

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and final plats, which are subject to the time frames in RCW 58.17.140. ~~((The time frames set forth in this Section apply to project permit applications filed on or after the effective date of the ordinance codified in this Chapter.))~~

- ~~((B))~~(2) In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time for issuance of the Notice of Decision, the following periods shall be excluded.
- ~~((4))~~(a) Any period during which the applicant has been requested by the County to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the County notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or fourteen days after the date the information has been provided to the County;
- ~~((2))~~(b) If the County determines that the additional information submitted by the applicant is insufficient, it shall notify the applicant of the continued deficiencies and the procedures under Subsection ~~((4))~~ (a) above shall apply as if a new request for studies had been made;
- ~~((3))~~(c) Any period during which an environmental impact statement is being prepared following a Determination of Significance pursuant to Chapter 43.21C RCW, if the County by ordinance has established time periods for completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement;
- ~~((4))~~(d) Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:
- (i) Ninety calendar days for an open record appeal hearing; and
 - (ii) Sixty calendar days for a closed record appeal.

The parties may agree to extend these time periods.

- ~~((C))~~(3) If the County is unable to issue its final decision on a project permit application within the time limits provided for in this Section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the Notice of Decision.

16B.07.040 Exceptions from 120-day Time Period.

The time limits established in Section 16B.07.030 do not apply if a project permit application:

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- ~~((A))~~(1) Requires an amendment to the comprehensive plan or a development regulation;
- ~~((B))~~(2) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200; or
- ~~((C))~~(3) Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under Sections 16B.04.020 – 16B.04.040.

16B.07.050 Compliance, Extension, Expiration and Reinstatement. [New section]

(1) Compliance with Conditions and Safeguards of Project Permit.

It is the affirmative duty of a project permit holder and the land owner (as applicant) to comply with the any conditions made a part of the terms under which the approval of a project permit was granted as authorized by Yakima County Code. The applicant shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in the decision and any authorized extensions. When the conditions of the project permit have been met within the timeframe specified by the decision and any subsequent extension authorized by the applicable code, the applicant shall provide a letter certifying that the conditions were met to the Administrative Official to document compliance.

(2) Extension of Any Approved Project Permit. A valid project permit, other than a preliminary plat, may be extended one time only for up to one additional year by action of the Administrative Official.

(a) Requests for extensions shall be made in writing, shall be submitted to the Planning Division prior to the expiration date and shall be accompanied by the final approved site plan showing the location and size of any development or work already completed on the project. Such extension request shall present a timeline that identifies when each of the conditions of the decision has or will be completed and shall detail unique and special circumstances that prohibited the commencement or completion, or both, of the use authorized.

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- (b) The Administrative Official shall review the request without public notice or hearing and issue the decision within fourteen days from the receipt of the completed request. The Administrative Official may:
 - (i) Approve the extension based on a work schedule provided by the applicant to assure the work will be completed according to a modified schedule, or
 - (ii) Disapprove the extension.
 - (c) The Administrative Official shall mail the decision to the applicant and shall specify the decision as final unless appealed to the Hearing Examiner under the provisions of Chapter 16B.09 of this Title. Conditions of approval listed previously in the notice of decision issued pursuant to 16B.07.010 through 16B.07.030 of this Chapter may be appealed only according to the procedures and time periods specified in YCC 16B.09.010 and are not subject to appeal again following any decision or determination of the Administrative Official made under this Section 16B.07.050.
- (3) Failure to Complete Approved Permit Conditions within Specified Timeframe and Failure to Comply with Permit Decisions or Conditions.
 - (a) Expiration. If compliance with the terms of the project permit approval has not occurred within the timeframe specified by the decision and any subsequent extension authorized by the applicable code, the project shall be considered expired by time limitation and the land use approval shall be null and void. Expiration of a project permit granted pursuant to Yakima County Code shall not be subject to appeal.
 - (b) Violations. A project permit issued or processed pursuant to any applicable Title listed in YCC 16B.01.020 will be deemed in violation of this Code if it is ascertained that the application included any false information material to the project permit approval, or if it develops that the conditions and safeguards made a part of the terms under which the approval was granted are not being maintained. Such violations of project permit approval shall be subject to Chapter 16B.11 and other remedies available to Yakima County under any applicable law to enforce conditions of permit approvals, remedy land use and code violations or abate those violations including without limitation YCC Title 13.
 - (c) Compliance agreement. The applicant and the County may enter into a compliance agreement to complete the required conditions subject to appropriate fees to compensate the County in preparing, recording and implementing the compliance agreement. On terms acceptable to the

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Administrative Official, in his or her sole discretion, the County may offer an extension of time to complete the required conditions of approval subject to appropriate fees to compensate the County in preparing, recording and implementing any such compliance agreement; provided, however, that no compliance agreement may be used in lieu of the permit process to remove or negotiate conditions of approval.

- (4) Reinstatement. Where a project permit has expired, the applicant may apply to have the permit reinstated and the work authorized by the original permit can be recommenced, provided the following are met:
- (a) The applicant submits a written request not more than sixty days after the original permit or authorized extension expired.
 - (b) The applicant provides a timeline for successful achievement of all conditions upon which the Administrative Official can agree.
 - (c) The codes under which the original permit was issued and other laws which are enforced by Yakima County have not been amended in any manner which affects the work authorized by the original permit.
 - (d) No changes have been made or will be made in the original plans and specifications for such work.
 - (e) The applicant submits a reinstatement fee. The fee for a reinstated permit shall be seventy percent of the amount required for a new project permit pursuant to YCC Title 20.
 - (f) Where the request for reinstatement does not comply with all of the preceding criteria in this Subsection, a new project permit application must be submitted and processed as a new project, at full permit fees.

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Chapter 16B.08 OPEN RECORD PUBLIC HEARINGS

Sections:

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

16B.08.010. Generally.

Open record public hearings shall be conducted in accordance with this Chapter.

16B.08.020 Responsibility of Administrative Official for Hearing.

Upon the filing of a project permit application requiring a public hearing, the Administrative Official shall set the time and place for the public hearing and shall provide notice of the hearing as set forth in Chapter 16B.05. The Administrative Official shall also prepare a staff report on the application and present this staff report at the public hearing. This staff report will incorporate recommendations on the project permit application, any mitigation measures recommended under the County's development regulations or under the authority of SEPA, and the County's final SEPA determination on the project permit application, if applicable.

16B.08.030 Order of Proceedings.

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

- ~~((A))~~(1) Staff presentation, including submittal of any administrative reports. The Hearing Examiner may ask questions of the staff.
- ~~((B))~~(2) Applicant presentation, including submittal of any materials. The Hearing Examiner may ask questions of the applicant.

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~~((C))~~(3) Testimony or comments by the public relative to the matter being heard. Questions directed to the staff or the applicant shall be posed by the Hearing Examiner at his/her discretion.

~~((D))~~(4) Rebuttal, response or clarifying statements by the staff and the applicant. The Hearing Examiner may further question a person submitting information or the staff if opportunity for rebuttal is provided.

~~((E))~~(5) The public hearing portion of the hearing shall be closed and the Hearing Examiner may deliberate on the matter. ~~((At this time the Hearing Examiner may further question a person submitting information or the staff if opportunity for rebuttal is provided.))~~

16B.08.040 Burden of Proof -- Open Record Hearings.

The burden of proof is on the applicant, or, in the case of an open record appeal on the appellant.

16B.08.050 Hearing Examiner Decisions and Recommendations.

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

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

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

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16B.08.060 Site View of Subject Property.

The Hearing Examiner may view the subject property with or without notification to the parties, but the circumstances of such site view shall be placed on the record.

16B.08.070 Joint Public Hearings.

~~((A))~~(1) The Administrative Official may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency with jurisdiction on the proposed action. Hearings shall be combined if requested by an applicant, provided that:

~~((1))~~(a) The hearing is held within the geographic boundaries of Yakima County;

~~((2))~~(b) Each agency is not expressly prohibited by statute from doing so;

~~((3))~~(c) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;

~~((4))~~(d) Each agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and

~~((5))~~(e) The joint hearing can be held within the required time periods or the applicant may agree to a particular schedule in the event that additional time is needed in order to combine the hearings.

~~((B))~~(2) All agencies participating in a combined hearing may issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, or take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

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Chapter 16B.09
ADMINISTRATIVE APPEALS, CLOSED RECORD HEARINGS,
((ADMINISTRATIVE APPEALS,)) AND JUDICIAL APPEALS

Sections:

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

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

- ~~((A))~~(1) An appeal of a Type ~~((I))~~ 1, ~~((II))~~ 2, or ~~((III))~~ 3 project decision or an appeal of a final environmental determination (SEPA) ~~((on a project decision))~~ shall be filed with the Planning ~~((department))~~ Division within fourteen calendar days of the mailing of the final decision or environmental determination issued under SEPA. If the decision does not require mailing, the appeal shall be filed within fourteen calendar days following the issuance of the final decision. Appeals shall be delivered to the Planning ~~((department))~~ Division by mail ~~((s))~~ or personal delivery ~~((or by fax))~~ before ~~((5:00 p.m.))~~ close of business on the last ~~((business))~~ day of the appeal period. Project permit applications shall be appealable to the appeal body designated in Table 3-1. For appeals of SEPA threshold determinations, see also Section 16B.06.070 of this Title.
- ~~((1))~~(a) If the final decision incorporates the SEPA threshold determination subject to a fourteen-day comment period, a joint twenty-one calendar day appeal period shall be provided on both the project decision and the SEPA threshold determination.
- ~~((2))~~(b) If the optional process is exercised, and the County determines that no additional comment period is warranted, the appeal process for SEPA and the underlying decision shall be fourteen calendar days from the date of issuance of the SEPA threshold determination.

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

~~((4))~~(a) Appellant's name, address, and phone number;

~~((2—The decision being appealed.))~~

(b) Appellant's statement establishing standing to initiate the appeal under Section 16B.09.020 of this Chapter;

(c) An identification of the specific proposal and specific actions, omissions, conditions or determinations for which appeal is sought;

~~((3))~~(d) Appellant's statement of the particular grounds for the appeal, setting forth the principal points of appeal and addressing why the appellant believes the decision to be wrong; and

~~((4))~~(e) The desired outcome or relief sought by the appellant.

(f) SEPA appeals shall additionally contain the information required by YCC 16B.06.070(4).

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

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

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

16B.09.020 Standing to Initiate Administrative Appeals.

~~((A))~~(1) Standing to initiate an Administrative Appeal is limited to:

(a) The applicant or owner of the property in which the project permit is proposed,

(b) The Planning Division, Yakima County Prosecuting Attorney or Board of Yakima County Commissioners; and

(c) Parties of record (~~(, affected agencies or tribes, or any person)~~) aggrieved by the final decision and who will suffer direct and substantial impacts from approval or denial of the project.

~~((B))~~(2) The term "parties of record" for the purposes of this Title, shall mean:

~~((4))~~(a) Any person who testified at the open record public hearing on the application;
or

~~((2))~~(b) Any person who submitted written comments in response to the Notice of Application or environmental review; or

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- ~~((3))~~(c) Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters) ~~((i))~~ ; or
- (d) Affected agencies or tribes; or
- (e) The applicant or owner of the property.

16B.09.030 Notice of Appeal.

In the case of an open record appeal hearing of a Type ~~((I))~~ 1 or Type ~~((H))~~ 2 project permit, public notice will be provided by the Administrative Official to property owners within 300 ft. of the project site. Public notice of closed record appeal hearings will be provided only to parties of record as defined by ~~((Section))~~ Subsection 16B.09.020~~((B))~~ (2) of this Chapter. Public notice requirements are further addressed in Chapter 16B.05.

16B.09.040 Open Record Appeals.

- (1) Open record appeals on Type ~~((I))~~ 1 and ~~((H))~~ 2 project permits and environmental determinations (SEPA) shall be heard by the Hearing Examiner. Open record appeals shall be conducted in accordance with Sections 16B.08.030 – 16B.08.060 and 16B.09.045 of this Code for open record public hearings and the adopted rules and procedures of the Hearing Examiner. New evidence or testimony may be given or received at this public hearing. Written argument or memoranda of authority may only be submitted pursuant to YCC 16B.09.045.
- (2) ~~((The determination of the Hearing Examiner may be further appealed to the Board of County Commissioners at a closed record appeal hearing.))~~ The decision of the Hearing Examiner on any SEPA appeal or on any Type 1 project permit appeal shall be final and not subject to further administrative appeal.

16B.09.045 Open Record Appeal Procedures.

The following procedures (Subsections 1 through 3) shall apply to any appeal heard by the Examiner under this Title unless the Examiner holds a prehearing conference under Subsection 4 of this Section and issues an order establishing the appeal procedure.

- (1) Memorandum to Examiner. Within ten days of filing the appeal, the appellant shall file with the Planning Division a memorandum setting forth the appellant's arguments and authority. The appellant's memorandum to the Hearing Examiner shall clearly identify whether the subjects of the appeal are concerned either with procedural issues or substantive determinations, or both, as defined in YCC 16.04.040. Such arguments

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and authority shall be restricted to those issues set forth in appellant's written appeal statement;

- (2) Staff Report. At least twenty days prior to the date of the scheduled hearing before the Examiner, County staff shall file with the office of the Hearing Examiner and provide the appellant with a staff report responding to the appellant's memorandum concerning the appeal; and
- (3) Reply Memorandum. At least ten days prior to the date of the scheduled hearing before the Examiner, the appellant or landowner may file with the Planning Division any reply memorandum which the appellant or landowner desires to file. The scope of the reply memorandum shall be restricted to responding to issues raised in the staff report.
- (4) Prehearing Conference. Any party may request a prehearing conference not later than ten days following the filing of appeal. The prehearing conference may be held at the discretion of the Examiner, in consultation with the Administrative Official. If the Examiner exercises his discretion to hold a prehearing conference on an appeal the Examiner may issue an order establishing the procedure and schedule for the hearing, and for the submittal of reports by County staff, applicant, and appellant, not inconsistent with this Title. The Examiner's order shall provide for the submittal of appellant's memorandum setting forth the appellant's arguments and authority, a County staff report responding to appellant's memorandum, applicant's memorandum responding to the appellant's memorandum, and appellant's reply memorandum. All written reports shall be submitted prior to the appeal hearing, consistent with the terms of the order. The parties shall provide copies of all submitted material to the other parties.
- (5) Failure to Comply. Failure to comply with the requirements of this Section may result in the Examiner taking such action in regard to the failure as is appropriate including, but not limited to dismissing the matter, continuing the hearing, postponing the hearing or limiting testimony at the hearing. The Hearing Examiner or Yakima County may require any appellant(s) who cause(s) a delay in the proceedings by not adhering to the submittal schedule to pay all additional fees associated with rescheduling meetings, including Hearing Examiner fees.

16B.09.050 Closed Record Decisions and Appeals.

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- ((A) ~~A closed record appeal shall be the Administrative Appeal on the record to the Board of County Commissioners following a previous open record hearing on the project permit application before the Hearing Examiner.))~~
- ((B) ~~A closed record decision shall be a closed record public hearing held by the Board of County Commissioners prior to the final decision but follows a previous open record public hearing on the project permit application before the Hearing Examiner. The Board of County Commissioners shall render the final decision on the project permit.))~~
- ((G))(1) Closed record appeals or closed record hearings shall be on the record ~~((with only appeal argument allowed, except the Board has the discretion to allow supplementation of the record upon a showing of good cause. Review by))~~ The record before the Board shall include all materials received in evidence at any previous stage of the review, audio/visual tapes of the prior hearing, a transcript in the case of an appeal, the Hearing Examiner's determination or recommendation, and argument by the parties at the Examiner's hearing. Upon receipt of a written appeal of a Hearing Examiner's decision on a Type 3 permit or a Type 2 appeal, the Board will decide how it will dispose of the appeal based on the record of the Hearing Examiner's decision and in accordance with this Section and YCC 16B.09.055.
- (a) The Board may decide to affirm the Hearing Examiner's decision based on its review of the written request and transcript without a public hearing, further written brief or oral argument. The appellant and parties of record shall be so notified in the manner provided by YCC 16B.05.050; or,
- (b) The Board may elect to consider the appeal based on the record of proceedings before the Hearing Examiner, the written appeal statement, any written memoranda of authorities submitted in compliance with the schedule of YCC 16B.09.055 and oral argument at a closed record public hearing. The appellant and other parties of record shall be notified of the Board's decision to consider the appeal, the invitation of written memoranda and its final decision on the appeal after its consideration in the manner provided by YCC 16B.05.050.
- (2) Oral argument at a closed record public hearing is limited to parties of record. Oral argument is allowed on a Type 4 recommendation of the Hearing Examiner and may be allowed for a closed record appeal in accordance with YCC 16B.09.055(8) if the Board chooses to conduct a public hearing.
- (3) The Board's action on a closed record hearing or appeal shall be as follows:
- (a) Following the Board's closed record hearing on a Type 4 recommendation of the Hearing Examiner, the Board may affirm the ~~((decision))~~ recommendation

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of the Hearing Examiner, remand the matter back to the Hearing Examiner with appropriate directions, or may reverse or modify the Hearing Examiner's recommendation.

- (b) Following the Board's review of a closed record appeal of a Hearing Examiner's Type 2 or 3 decision, the Board may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and the Board finds that the recommendation or determination of the Hearing Examiner is not supported by material and substantial evidence. In all other cases, the appeal shall be denied.
- (4) If the Board renders a decision different from the Hearing Examiner's determination or recommendation, the Board shall adopt amended findings and conclusions accordingly. If the Board affirms the Examiner's determination or recommendation, it may adopt the findings and determinations or recommendations of the Examiner as the final decision.
- (5) The Board's final written decision shall constitute a final administrative action for the purposes of Chapter 36.70C RCW.

16B.09.055 Closed Record Appeal Procedures. [New section]

The following procedures shall apply to any appeal considered by the Board of County Commissioners.

- (1) Appeal Statement. The appellant's written appeal statement shall specify the claimed error(s) or issue(s) which are being appealed and shall specifically state all the grounds for such appeal, limited to stating why the record does or does not support the decision of the Hearing Examiner because the decision:
- (a) Was based on improper procedures that prejudiced the appellant;
(b) Was not based on substantial evidence; or
(c) Constitutes clearly erroneous application of the development regulations to the proposed project.

Issues or grounds of appeal which are not so identified shall not be considered by the Board.

- (2) Transcript. The appellant shall order preparation of a written transcript or portion of the transcript agreed upon by the appellant and Administrative Official. The transcription must be performed and certified by a County approved transcriber. In addition, the certified transcription must be received by the Administrative Official

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directly from the transcriber not more than thirty days following receipt of the appeal statement.

- (a) The Administrative Official shall maintain a list of pre-approved transcribers that are court approved; and if needed, shall coordinate with parties to the appeal so that no more than one official transcription is admitted into the record.
 - (b) The cost of the transcript must be paid by the appellant within five days of receipt of the transcriber's statement for the cost. Upon payment of the statement the transcriber will deliver a copy of the transcript to the Administrative Official. If the statement is not paid, the appeal will be dismissed.
- (3) Disposition of Appeal. The Administrative Official will consult with the Clerk of the Board who shall set the date, time and place at which the matter will be considered. Copies of the record, to the extent practicable, will be furnished by the Administrative Official to the Board, the appellant and the applicant. At the next regular meeting of the Board following receipt of the record from the Administrative Official, the Board will decide at a public meeting whether to affirm the decision of the Hearing Examiner, or to invite written memoranda of authorities and direct the Clerk to schedule a closed record public hearing.
- (4) Notice of Hearing. If the Board decides to invite written memoranda of authorities and conduct a closed record public hearing in accordance with YCC 16B.09.050, the Planning Division shall notify the parties of record that an appeal has been filed and that copies of the notice of appeal and any written argument or memorandum of authorities accompanying the notice of appeal may be obtained from the Planning Division. The notice to parties shall also state that parties of record wishing to respond to the appeal may submit written argument or memorandum to the Planning Division at least fourteen days prior to the date of the scheduled hearing before the Board. The notice shall further specify that such written argument or memorandum shall not include the presentation of new evidence and shall be based only upon the facts presented to the Examiner. A copy of the notice shall be sent to the appellant and parties of record.
- (5) Staff Report. At least fourteen days prior to the date of the scheduled hearing, the Administrative Official shall file a staff report concerning the appeal with the Board, and provide a copy to the appellant and other parties of record.
- (6) Memoranda from Appellant and other Parties of Record. Any party of record may submit a written argument or memorandum of authority at least fourteen days prior

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to the date of the scheduled hearing before the Board of County Commissioners. Such invited written argument or memorandum of authorities shall be filed with the Board with copies to the Planning Division and the other parties. No written argument or authorities may be thereafter submitted. Memoranda, written argument or comments shall not include the presentation of any new evidence and shall be based only on the facts presented to the Examiner. The memoranda are limited to stating why the record does or does not support the decision of the Hearing Examiner.

- (7) Oral argument. Oral argument shall be confined to the issues raised in the hearing record, appeal statement, the Hearing Examiner's decision, staff report, and memoranda of authorities timely filed by the deadlines set for briefing. Oral argument shall be limited to stating why the record does or does not support the decision of the Hearing Examiner. Time allowed for oral argument shall be appropriately limited by the Board.
- (8) Decision by the Board. The Board shall deliberate on the matter in public at the advertised public hearing to reach its decision. The decision on the appeal shall be made on the appeal statement, written memoranda of authorities, staff report and any documents comprising the record that formed the basis for the administrative appeal. No additional evidence or testimony shall be given or received except for oral argument as allowed in Subsection 16B.09.055(7) above. A written decision will be made within thirty days of the close of the deliberation and vote on the appeal.
- (9) Failure to Comply. Written memoranda of authorities, if invited, must be received by the Clerk of the Board by mail or personal delivery before the close of business on the due date. Late submittals received after the deadline or uninvited memoranda shall not be accepted or distributed for consideration no matter when such submittals were mailed or postmarked.

16B.09.060 Judicial Appeals.

- ~~((A))~~(1) ~~((The Board of County Commissioners'))~~ A final determination on an application may be appealed by a party of record with standing to file a land use petition in ((Washington State)) Superior Court. Such petition must be filed within twenty-one days of issuance of the Board's decision, as provided in Chapter 36.70C RCW.
- ~~((B))~~(2) This process shall be the exclusive means of judicial review, except for local land use decisions reviewable by a quasi-judicial body created by state law, such as the Shorelines Hearings Board or the Growth Management Hearings Board.

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16B.09.070 Appeals Standards and Criteria.

The appeal body or Reviewing Official shall issue a decision to grant, grant with modifications, or deny the appeal in accordance with YCC 16B.08.050 for open record appeals, YCC 16B.09.050 for closed record appeals and this Section for all types of appeals. The appeal body or Reviewing Official shall accord substantial weight to the decision of the applicable Administrative Official and the SEPA Responsible Official.

- (1) If the appeal body or Reviewing Official determines that the challenged decision is supported by substantial evidence in the record and is a correct application of the law, then the decision shall be upheld.
- (2) If the appeal body or Reviewing Official determines that the challenged decision is not supported by substantial evidence, then the decision shall be reversed or remanded.
- (3) If the appeal body or Reviewing Official determines that the challenged decision is an incorrect application of the law, then the decision shall be reversed or remanded.

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Chapter 16B.10
COMPREHENSIVE PLAN AND REGULATORY AMENDMENT PROCEDURES
(Amended Ord. 9-2009, effective 12/31/09)

Sections:

16B.10.010	Purpose.
16B.10.020	((Definitions)) <u>Reserved.</u>
16B.10.030	Applicability.
16B.10.040	Procedures.
((16B.10.050	Approval Criteria))
16B.10.060	Submittal Requirements
16B.10.070	Timing of Amendments.
16B.10.080	Public Process and Notice.
16B.10.090	Major Rezones.
16B.10.095	<u>Approval Criteria.</u>
((16B.10.100	Development Regulation Amendments.))

16B.10.010 Purpose.

The purpose of this Chapter is to provide procedures and criteria for adopting, amending and updating the Yakima County Comprehensive Plan and the Yakima Urban Area Comprehensive Plan, as well as their respective implementing development regulations. Plan amendments may involve changes in the written text or policies of the plan, to the Policy Plan Maps, or to supporting documents, including capital facilities plans. Plan amendments will be reviewed in accordance with this Chapter, the state Growth Management Act (GMA), the Yakima County-wide Planning Policy, the goals and policies of the Yakima County Comprehensive Plan, local city comprehensive plans, inter-local agreements, applicable capital facilities plans, official population growth forecasts and growth indicators.

16B.10.020 ((Definitions.)) Reserved.

- ~~(((1) "Administrative Official" is the Yakima County Planning Director. Synonymous with "director" or "administrator".~~
- ~~(2) "Plan Maps" are those regulatory and non-regulatory maps located in a comprehensive plan or development regulation that have the force of policy and require legislative approval for amending.~~

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(3) ~~—"Policy Plan Map" refers to the official Future Land Use Map.))~~

16B.10.030 Applicability.

- (1) The criteria and requirements of this Chapter shall apply to all proposals for changes to comprehensive plan text, policies, map designations, major rezones or supporting documents and all implementing ordinances, in the unincorporated areas of Yakima County, unless specifically exempted. The following types of actions may be considered through the process set forth in this Section:
 - (a) Site-specific ~~((plan))~~ policy plan map changes including land use, urban growth area boundaries, and mineral resources;
 - (b) ~~((Changes to plan maps other than the Policy Plan map;~~
 - (e)) Plan policy or other text changes ~~((r))~~ ;
 - ~~((d))~~ (c) Changes to official controls intended to implement the goals and policies of the comprehensive plans.
- (2) The criteria, but not the timing requirements, of this Chapter shall apply to plan amendments that are exempted from requirements for ~~((annual))~~ biennial concurrent review of plan amendments, per RCW 36.70A.130. These include:
 - (a) The initial adoption of a sub-area plan;
 - (b) The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;
 - (c) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a County or city budget;
 - (d) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established under YCC 16B.10.080 Public Process and Notice and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.
 - ~~((d))~~(e) Amendments necessary to address an emergency situation;
 - ~~((e))~~ (f) Amendments required to resolve a comprehensive plan appeal decision filed with a Growth Management Hearings Board or with the court.
- (3) Site-specific policy plan map amendments apply to a limited geographical area controlled either by an individual property owner or all property owners within the designated area. ~~((A proposal which modifies or develops policies yet directly affects relatively few individuals or a limited geographical area is considered a site specific amendment.))~~ The Administrative Official shall determine whether a proposal is site-

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specific or area-wide in scope. The ruling of the Administrative Official shall not be subject to appeal.

16B.10.040 Procedures.

- (1) The Planning Commission may hold a meeting each year to report to the public on progress in implementing the comprehensive plan. At that time, the Planning Commission will (~~receive~~) accept oral and written public comments and suggestions from any interested party regarding changes needed in the comprehensive plan and development regulations.
- (2) Plan and development regulation amendments other than site-specific rezones consistent with an adopted comprehensive or subarea plan shall be considered legislative actions and subject to the procedures in this Section, except (~~as~~) when noted (~~above~~) otherwise.
- (3) Applications for plan amendments, with the exception of Urban Growth (~~Areas~~) Area boundaries, will be (~~accepted~~) considered on a biennial basis starting (~~2010~~) 2013 and must be submitted in writing, to the Planning Division, no later than January 31 in order to be considered for that (~~year's~~) biennium's amendment process.
- (4) Site-specific policy plan map changes not involving a change to Urban Growth Area boundaries may be initiated by the property owner(s) or any agent of the owner with proof of agency through a fee-paid application process, or by recommendation of the Planning Commission or Administrative Official. All site-specific policy plan map amendment requests will be docketed for further staff review and consideration by the County Planning Commission and the Board of County Commissioners.
- (5) Applications for amendments to Urban Growth Area boundaries will only be considered at five-year intervals, after the Washington State Office of Financial Management's 20-year GMA population projections for the County have been issued. After the OFM projections are issued, the population projections will be allocated to the cities, (~~and~~) towns and the unincorporated areas within Yakima County in accordance with the County-wide Planning Policy after which the Administrative Official will conduct an analysis of all Urban Growth Areas within the County to determine their ability to accommodate the urban growth projected to occur during the OFM's population projection period. Consideration of the analysis and any applications to amend Urban Growth Area boundaries may occur in the next possible plan amendment cycle as determined by the Administrative Official; provided that any city or town may postpone consideration of its Urban Growth Area boundary to a

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subsequent plan amendment cycle by notifying the Administrative Official in writing no later than January 31.

~~((6)) ((Comprehensive plan text amendments may be proposed by any party, including Planning Division staff. All such amendments, except those initiated by the Yakima County, must be submitted with a signed agreement to pay fees and the required deposit, per the adopted fee schedule, using the appropriate forms, but shall be docketed at the discretion of the Planning Commission, unless an amendment is determined by the Board of County Commissioners necessary to remain consistent with state requirements. If the Planning Commission fails to docket the proposed amendment, the unexpended portion of the submitted deposit will be refunded to the applicant.))~~

~~((7))~~ (6) Comprehensive plan and development regulation text amendments may be proposed by any party, including County staff, at any time to the Administrative Official.

(a) All such amendments, except those initiated by ~~((the))~~ Yakima County, must be submitted ~~((with a signed agreement to pay fees and the required deposit, per the adopted fee schedule,))~~ in accordance with YCC 16B.10.060 Submittal Requirements using the appropriate forms, but shall be forwarded to the Planning Commission for ~~((their))~~ its docketing consideration at the discretion of the Administrative Official, unless an amendment is ~~((determined))~~ requested by the Board of County Commissioners necessary to remain consistent with state requirements. ~~((If the Planning Commission fails to docket the proposed amendment, the unexpended portion of the submitted deposit will be refunded to the applicant.))~~

(b) Following the annual meeting of the Planning Commission, the Administrative Official will compile a list of suggested changes, and will recommend to the Planning Commission which should be docketed for further consideration during the current amendment cycle, deferred for future research and consideration, or not pursued, each in accordance with his determination in YCC 16B.10.095(6). The Administrative Official shall provide the Board of County Commissioners with the Planning Commission's recommendations regarding deferred items when setting the Planning Division work program for the next budget cycle.

~~((8))~~ (7) The Planning Commission shall provide an opportunity for public comment regarding the suggested text changes, and review them to determine whether they should be docketed to receive further review and consideration as part of the current year's amendment cycle. A suggested amendment will not be docketed for further processing if the Planning Commission determines one or more of the following:

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- (a) The suggested amendment would likely cause environmental impacts that have not previously been analyzed or require additional review to determine impacts that cannot be completed within the required time frame.
 - (b) The suggested amendment would require additional analysis to determine capital facilities impacts and amendments that cannot be completed within the required time frame.
 - (c) The suggested amendment would require additional analysis to determine the appropriate land use designation that cannot be completed within the required time frame.
 - (d) The suggested amendment would involve an area that will be part of a sub-area planning process in the next two years.
 - (e) The suggested amendment has been previously reviewed by the Planning Commission or Board of County Commissioners, and circumstances have not substantially changed to support an additional review prior to a general plan update.
 - (f) The suggested amendment clearly violates a provision of the County-wide planning policies, a city comprehensive plan, the Yakima County Comprehensive Plan, the Yakima Urban Area Comprehensive Plan, ~~((or))~~ the GMA or the SMA such that no further review is necessary or warranted.
 - (g) The suggested amendment is not sufficiently clear or well-defined to merit further review.
 - (h) The comprehensive plan is not the appropriate place to deal with this suggestion.
 - (i) It is not in the public interest to pursue the suggested amendment at the time.
- ~~((9))~~ (8) Either the Board of County Commissioners or the Planning Commission may initiate items for docketing and consideration as part of the biennial plan amendment cycle.
- ~~((10))~~ (9) The decision of the Planning Commission on whether to docket a proposed text amendment for additional review is not subject to appeal.
- ~~((11))~~ (10) The decision of the Administrative Official on whether to present to the Planning Commission a proposed development regulation text amendment for ~~((their))~~ its docketing consideration is not subject to appeal.
- ~~((12))~~ (11) After the docket is set, the Planning Division shall conduct its review of the docketed plan amendments, including analysis of how the proposed amendment meets the criteria for the existing and proposed designation, as well as environmental review. No amendments shall be docketed after the publication of the notice of public hearing and environmental review. If the Planning Division or SEPA Responsible Official

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determines that any of the proposed amendments would require review of environmental impacts beyond the analysis in the Environmental Impact Statement for the comprehensive plan, such that additional analysis is required that cannot be completed within the amendment schedule, the proposed amendment shall be deferred until the next plan amendment cycle, and the Planning Commission and the applicant shall be so notified, in writing. Any unused fee deposit will be returned to the applicant at that time, and a new deposit will be required prior to the January 31 deadline of the following cycle to continue the application process.

(12) Following the recommendation of the Planning Commission regarding any amendment to a comprehensive plan or development regulation, the Board, at a regular or special agenda, may set either a public meeting or public hearing where it will consider the recommendation in the form of an ordinance, [REDACTED]

- (a) At the public meeting, the Board may adopt the recommendation without change, reject the recommendation, or deem that a change in the recommendation is necessary.
- (b) If the Board deems that a change to the recommendation is necessary, a public hearing shall be set prior to adopting any changes to the recommendation, to consider the changes proposed by the Board, following all applicable procedures of Chapter 36.70 RCW, such as procedures for notification and adoption.
- (c) Legislative Enactments Not Restricted. Nothing in this section or the permit processing procedures shall limit the authority of the BOCC to make changes to the County's comprehensive plan, as part of a regular revision process, or to make changes to the County Code.

((16B.10.050)) 16B.10.095 Approval Criteria.

[NOTE: When codified, this section should be placed as the last section of this chapter. It is maintained in its former place here for brevity and to more clearly show the amendments to the previous text.]

- (1) The following criteria shall be considered in any review and approval of amendments to Yakima County Comprehensive Plan Policy Plan Maps:
 - (a) The proposed amendment is consistent with the Growth Management Act and requirements, ~~((the County wide Planning Policies,))~~ the Yakima County Comprehensive Plan, the Yakima Urban Area Comprehensive Plan and applicable sub-area plans, applicable city comprehensive plans, applicable capital facilities plans and official population growth forecasts and allocations;

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- (b) The site is more consistent with the criteria for the proposed map designation than it is with the criteria for the existing map designation;
 - (c) The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity;
 - (d) For a map amendment, substantial evidence or a special study has been furnished that compels a finding that the proposed designation is more consistent with comprehensive plan policies than the current designation;
 - (e) To change a resource designation, the policy plan map amendment must be found to do one of the following:
 - (i) Respond to a substantial change in conditions beyond the property owner's control applicable to the area within which the subject property lies; or
 - (ii) Better implement applicable comprehensive plan policies than the current map designation; or
 - (iii) Correct an obvious mapping error; or
 - (iv) Address an identified deficiency in the plan. In the case of Resource Lands, the applicable de-designation criteria in the mapping criteria portion of the land use subchapter of Yakima County Comprehensive Plan, Volume 1, Chapter I, shall be followed. If the result of the analysis shows that the applicable de-designation criteria has been met, then it will be considered conclusive evidence that one of the four criteria in paragraph (e) has been met. The de-designation criteria are not intended for and shall not be applicable when resource lands are proposed for re-designation to another Economic Resource land use designation.
 - (f) A full range of necessary public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools.
 - (g) The proposed policy plan map amendment will not prematurely cause the need for nor increase the pressure for additional policy plan map amendments in the surrounding area.
- (2) The following criteria shall be considered in any review and approval of ~~((expansions of the))~~ changes to Urban Growth Area (UGA) boundaries: ~~((for residential and local commercial purposes.))~~
- (a) Land Supply:
 - (i) ~~((There is insufficient))~~ The amount of buildable land suitable for residential and local commercial development within the incorporated and the unincorporated portions of the Urban Growth Areas ~~((to))~~ will

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accommodate the adopted population allocation and density targets~~((that has not yet been accommodated))~~.

(ii) The amount of buildable land suitable for purposes other than residential and local commercial development within the incorporated and the unincorporated portions of the Urban Growth Areas will accommodate the adopted forecasted urban development density targets within the succeeding twenty-year period.

(iii) The Planning Division will use the definition of buildable land in YCC 16B.02.045, the criteria established in RCW 36.70A.110 and .130 and applicable criteria in the Comprehensive Plan and development regulations;

(iv) 

~~(b) ((There is a lack of suitable lands within the boundary for the proposed land use;~~

(b) Utilities and services:

(i) The provision of urban services for the urban growth area ~~((to the area))~~ is prescribed, and funding responsibilities delineated, in conformity with the comprehensive plan, including applicable capital facilities, utilities, and transportation elements, of the municipality ~~((to which the property will be added or whose urban growth boundary is to be expanded))~~;

~~((e))~~(ii) Designated Ag resource lands, except for mineral resource lands that will be reclaimed for urban uses, may not be included within the UGA unless it is shown that there are no practicable alternatives and the lands meet the de-designation criteria set forth in the comprehensive plan;

~~((c))~~ — The extension of the urban growth area boundary incorporates the amount of land deemed appropriate by the municipality to which the property will be added or whose urban growth boundary is to be expanded, in order to accommodate the proposed use; and

~~((3))~~ — The following criteria shall be considered in any review and approval of expansions of urban growth boundaries for purposes:

~~(a) — There is insufficient land suitable for the proposed development within the existing urban growth boundary to accommodate the proposed development;~~

~~(b) — The provision of urban services is prescribed and funding responsibilities delineated in conformity with the comprehensive plan, including capital~~

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- ~~facilities, utilities, and transportation elements of the municipality to which the property will be added or whose urban growth boundary is to be expanded;~~
- ~~(c) Designated resource lands, except for mineral resource lands that will be reclaimed for urban uses, may not be included unless it is shown that there are no practicable alternatives; and~~
- ~~(d) The extension of the urban growth boundary incorporates the amount of land deemed appropriate by the municipality to which the property will be added or whose urban growth boundary is to be expanded, in order to accommodate the proposed use.))~~
- (3) Land added to or removed from Urban Growth Areas shall be given appropriate policy plan map designation and zoning by Yakima County, consistent with adopted comprehensive plan(s).
- (4) Cumulative impacts of all plan amendments, including those approved since the original adoption of the plan, shall be considered in the evaluation of proposed plan amendments.
- (5) Plan policy and other text amendments including capital facilities plans must be consistent with the GMA, SMA, CWPP, other comprehensive plan goals and policies, and, where applicable, city comprehensive plans and adopted inter-local agreements.
- (6) Prior to forwarding a proposed development regulation text amendment to the Planning Commission for ~~((their))~~ its docketing consideration, the Administrative Official must make a determination that the proposed amendment is consistent with the GMA, CWPP, other comprehensive plan goals and policies, and, where applicable, city comprehensive plans and adopted inter-local agreements.

16B.10.060 Submittal Requirements.

All requests for plan amendments or for amendments to development regulations shall be made in writing using the ~~((official))~~ application submittal documents provided by the Yakima County Planning Division and shall include the following information. Applications not containing the required information will not be accepted:

- (1) Site specific policy plan map amendments:
- (a) Completed application form and any other documents deemed necessary by the Administrative Official, provided by the Planning Division, signed by the legal owner or by a representative authorized to do so by written instrument submitted with the form.

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- (b) Signed agreement to pay fees and the required deposit per the adopted fee schedule.
 - (c) Parcel number(s) of the subject property.
 - (d) Site plan or map(s) of the subject property which indicate the approximate location of all existing buildings, vegetation, roads, critical areas, and the land use of adjacent properties.
 - (e) Written narrative stating the reasons for the plan amendment and how the proposed plan amendment meets the applicable criteria in Section ~~((16B.10.050(4)))~~ 16B.10.095(1).
 - (f) Completed and signed SEPA checklist.
- (2) Plan or development regulation text amendments:
- (a) Completed application form and any other documents deemed necessary by the Administrative Official, provided by the Planning Division, signed by the applicant.
 - (b) ~~((A signed agreement to pay fees and the required deposit per the adopted fee schedule.~~
 - ~~((e)))~~ Suggested amendment.
 - ~~((d)))~~ (c) Written narrative including the reasons for the suggested amendment and how it meets the applicable criteria in Section ~~((16B.10.050(5)))~~ 16B.10.095(5).
 - ~~((e)))~~ (d) Any supporting documentation.

16B.10.070 Timing of Amendments.

- (1) The comprehensive plan shall be amended no more frequently than once every two years as set forth by YCC 16B.10.040 and RCW 36.70A.130(2)(a). Applications for site-specific or text amendments to the comprehensive plan must adhere to the time periods and procedures established in this Chapter as described in Section 16B.10.040(3).
- (2) The plan amendment process may be suspended by the Board during a general plan or code update process.
- (3) ~~((Early assistance meetings or p))~~ Pre-application conferences can be held at any time; however, applications for amendments to policy plan map, text or development regulations will only be accepted before ~~((4:30 pm))~~ close of business on the last business day in ~~((the))~~ January. Items received after the January deadline will be processed in the next biennial amendment cycle.

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- (4) At its March meeting following the January deadline, the Planning Commission will review the suggested plan text changes for docketing and those development regulation text changes recommended by Administrative Official for docketing consideration. When the Planning Commission has completed its review, it will set the docket of proposed amendments.
- (5) The Planning Division shall establish timelines for additional review and consideration by the Planning Commission and Board of County Commissioners to ensure that the plan amendment process is finished prior to December 31st of each year.

16B.10.080 Public Process and Notice.

To provide for the opportunity of citizens to suggest and make comments on ~~((proposed))~~ docketed ~~((plan))~~ amendments, the following public notice and outreach provisions shall be completed during each plan or development regulation amendment process.

- (1) Notice of the plan or development regulation amendment process deadlines shall be publicized through: ~~((a general mailing to))~~
 - (a) A general mailing to interested parties,
 - (b) Posting on the Public Services Web site,
 - (c) Notice in the County's newspaper of record and other print media as appropriate,
 - (d) Press releases to the media,
 - (e) Posting of information at the Planning Division and other office areas of the County where interested parties may conduct business.
- (2) Initial notice of submitted applications will be posted on the Yakima County Public Services web site and in the Planning Division's offices.
- (3) Site-specific policy plan map amendments shall follow the notification procedures ~~((below;))~~ of Section 16B.05.030 of this Code.

~~((First Class Mailing.~~

- ~~((a) Written notice of the proposed amendment will be sent through first class mail by the Planning Division to the following parties:~~
 - ~~((i) Adjacent property owners (APO) of real property, as listed on the most current Yakima County Assessor records, located within 300 feet of any portion of the boundary of the affected area. If an owner within the affected area also owns another adjacent parcel or parcels of real property, notice shall be given to~~

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~~owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property.~~

- ~~(ii) The contact person for the proposed amendment;~~
- ~~(iii) Interested or affected public agencies with jurisdiction;~~
- ~~(iv) Affected Indian tribes; and~~
- ~~(v) Cities or towns within one mile of the proposal.~~

- ~~(b) If the open record hearing date is not specified in the notice of the proposed amendment, a second notification listing the open record hearing date must be sent through first class mail at least ten days prior to the first public hearing. This notice must be sent to those parties who were originally mailed a notice. Only those who comment or request to remain on the mailing list will be notified of additional public hearings.~~

Posting of Site.

~~Posting of the site is required prior to an open record public hearing on site specific plan amendment proposals. Site posting is not required for urban growth area amendments. Posting shall consist of signs provided by the Planning Division that shall be placed at least ten days prior to the date of the public hearing. Signs shall be posted on the subject property so as to be clearly seen from each right of way providing primary vehicular access to the subject property. The posted notice shall identify the proposed amendment, describe the extent of the site, comment period dates, hearing dates, and a location where the complete application or proposal may be reviewed. The applicant shall be responsible for posting the site and removal of the posted notice upon the conclusion of the hearing. If the applicant fails to post the property within the required time period set forth in this Section, the applicant will be responsible for all costs associated with re-noticing for a new hearing.~~

Publication Notice.

~~Notice of the proposed amendment shall be published in a newspaper of general circulation in the general area of the proposal. The notice shall be published once, at least ten days prior to the date of the first public hearing. This notice shall include the proposal location in other than a legal description, a brief description of the proposed amendment, comment period dates, hearing dates if applicable, and a location where the complete application or proposal may be reviewed.))~~

- (4) Additional public notification may be undertaken by the Planning Division, if it determines that it is in the public interest to do so.

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16B.10.090 Major Rezones.

Legislative rezones necessary to maintain consistency between the comprehensive plan policy plan map and the official zoning map shall be completed concurrently with the plan amendment process wherever appropriate. Major rezones shall not require additional fees or review processes. Rezones completed as part of the plan amendment process shall be reviewed against the criteria as for plan amendments in Section (~~16B.10.050~~) 16B.10.095, Section 15.76.036 and/or (~~Section~~) Chapter 15A.23 of this code and must be consistent with the requested plan designation. Rezones not requiring a plan amendment involving the County Zoning Ordinance (~~and~~) are subject to Section 15.76.050 and those for Yakima County Urban Growth Area Zoning Ordinance are subject to (~~Section~~) Chapter 15A.23.

~~((16B.10.100 Development Regulation Amendments.~~

~~(1) Any interested party may propose amendments to official controls at any time to the Administrative Official. If the Planning Commission fails to docket the proposed amendment, the unexpended portion of the submitted deposit will be refunded to the applicant.~~

~~— All requests for amendments to development regulations shall be made in writing and shall include the following information. Applications not containing the required information will not be accepted:~~

- ~~(a) Completed application form and any other documents deemed necessary by the Administrative Official, provided by the Planning Division, signed by the applicant.~~
- ~~(b) A signed agreement to pay fees and the required deposit, per the adopted fee schedule.~~
- ~~(c) Suggested amendment.~~
- ~~(d) Written narrative including the reasons for the suggested amendment and how it meets the applicable criteria in Section 16B.10.050(5).~~
- ~~(e) Any supporting documentation.~~

~~— All such amendments, except those initiated by the Yakima County, shall be forwarded to the Planning Commission for the docketing consideration at the discretion of the Administrative Official, unless an amendment is determined by the Board of County Commissioners necessary to remain consistent with state requirements.~~

~~(2) At its annual public meeting to review progress in implementing the Yakima County Comprehensive Plan, held each year, the Planning Commission will accept oral and written comments from any interested party.~~

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- (3) ~~Following the annual meeting, the Administrative Official will compile a list of suggested changes, and will recommend to the Planning Commission which should be docketed for further consideration during the current amendment cycle, deferred for future research and consideration, or not pursued. The Administrative Official shall provide the Board of County Commissioners with the Planning Commission's recommendations regarding deferred items when setting the Planning Division work program for the next budget cycle.))~~

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Chapter 16B.11 VIOLATIONS AND ENFORCEMENT

Sections:

- 16B.11.010 Purpose.
- 16B.11.020 Authority and Application.
- 16B.11.030 Complaints.
- 16B.11.040 Violations.
- 16B.11.050 Penalties.
- 16B.11.060 Codes Preserved.

16B.11.010 Purpose.

The purpose of this Chapter is to promote compliance with permit decisions, conditions and this Title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in this Title when violations of YCC Title 16B or applicable Titles listed in YCC 16B.01.020 occur. Notwithstanding other remedies in this chapter, any building or structure set up, erected, built, used, moved or maintained or any use of property contrary to the provisions of this Title or any Title of Yakima County Code listed in YCC 16B.01.020, shall be and the same is declared to be a public nuisance. The appropriate Reviewing Official may seek legal or equitable (including injunctive) relief or other forms of civil relief in superior court. The provisions of this chapter are completely supplemental to other provisions of Yakima County Code. Provisions of this chapter are neither an exclusive remedy nor a prerequisite for any other administrative or judicial action authorized by law.

16B.11.020 Authority and Application.

The Administrative Official is authorized to enforce the provisions of this Title, any implementing administrative rules and approval conditions attached to any project permit approval.

16B.11.030 Complaints.

Whenever a violation of this Title or any Title of Yakima County Code listed in YCC 16B.01.020 occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Official. He shall record such complaint, investigate and in consultation with the Administrative Official take action thereon as deemed appropriate and as provided by this

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Title and/or YCC Title 13, as may be applicable; provided, however, that enforcement shall be undertaken for the benefit of the health, safety, and welfare of the general public and the environment and not for any particular person or class of persons.

16B.11.040 Violations.

- (1) It is a violation of this Title for any person to initiate or maintain, or to cause to be initiated or maintained, any use, alteration, construction, location, or demolition of any structure, land, or property within Yakima County without first obtaining permits or authorizations required by this Code.
- (2) It is a violation of this Title to remove or deface any sign, notice, complaint, or order required by or posted in accordance with this Code.
- (3) It is a violation of this Title to misrepresent any material fact in any application, plans, or other information submitted to obtain any project permit authorization.
- (4) It is a violation for any person to fail to comply with provisions of this Code, to fail to comply with the terms or conditions of a permit issued pursuant to this Title, or to fail to comply with any or all notices or orders issued pursuant to this Code.

16B.11.050 Penalties.

- (1) Any person, firm or corporation violating any of the provisions of this Title or any Title of Yakima County Code listed in YCC 16B.01.020, including the provisions of the various Codes adopted by reference therein, or failing to comply therewith, or violating or failing to comply with any order or decision issued or made pursuant to any provisions of said Codes shall severally and for each and every violation and non-compliance respectively, be guilty of a misdemeanor or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW, YCC Title 13.25 or any other remedy provided by law and, further, such violation shall constitute a public nuisance. Any person so convicted of a misdemeanor shall be punished for each offense by a fine of not more than ONE THOUSAND DOLLARS (\$1,000.00) or by imprisonment for not more than NINETY (90) days, or by both such fine and imprisonment. Each day, or any portion thereof, after written notice of a violation has been issued shall be considered a separate offense.
- (2) The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation, after being notified of such violation, may each be found guilty of a separate offense and suffer the penalties provided in this Section and YCC Title 13.
- (3) In addition to the penalties described in this Chapter and YCC Title 13, actions that can be taken by the County include, but are not limited to: withholding any and all

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permits for development or land division, unless said permit or application is directly related to a proper remedy of the violation; assessing double fees for all permits and applications necessary to remedy the violation; notifying by certified mail all property owners of record of the violation and remedies required to abate the violation; abating or otherwise causing the violation to be removed with a lien filed against the property to recover costs; or other such action as may be needed to enforce this code. A violation of this or other County ordinances or state law found to exist on the property may also be considered sufficient grounds for denial of an application by the County if the proposed application cannot and does not remedy the violation. Actions under this Chapter may be taken in any order deemed necessary or desirable by the County to achieve the purpose of this Chapter. The Administrative Official may call upon any appropriate County officials or departments to assist in enforcing this Chapter.

- (4) Where it is clear to the Administrative Official that a proposed land division or other permit application filed to remedy the violation(s) is clearly inconsistent with the Comprehensive Plans, the intent of the Zoning District or other provisions of County code or state law, the application shall be returned without processing and any fee refunded. Notwithstanding any contrary provisions of this Title regarding processing of applications and decisions and appeals related thereto, this determination of the Administrative Official shall not be appealable under the provisions of this Title.
- (5) It shall be the affirmative duty of the County Prosecutor's office to seek relief under this Chapter and YCC Title 13 for violations of Title 16B or any Title of Yakima County Code listed in YCC 16B.01.020. Nothing herein contained shall prevent the County Prosecutor's office from taking such lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

16B.11.060 Codes Preserved.

Except as otherwise inconsistent with this Chapter, the provisions of the Codes adopted by reference in this Title pertaining to violations shall remain in full force and effect.

EXHIBIT B
To
Ordinance 5-2012 Amendments to YCC 16B Project Permit Administration

This Exhibit documents the discussion and direction by the Board of Commissioners following its May 29, 2012 public hearing on YCC Title 16B. Amendments to Exhibit A, as confirmed by the Board, are shown with red underlined new text, deletions with blue strike-through.

1. 16B.02.020 "Administrative Official."

Direction: Modify the definition of "Administrative Official" to read as follows:

16B.02.020 "Administrative Official" means the ~~((duly appointed))~~ Yakima County Planning Director or the director's designee. This term is synonymous with "Director" or "Administrator."

2. 16B.02.045 "Buildable Land."

Direction: Modify the definition of "Buildable Land" to read as follows:

16B.02.045 "Buildable Land," for the purposes of 16B.10.095(2)(a), means land ~~((within or near urban areas that is))~~ suitable and available for urban residential, commercial, and industrial uses and includes both vacant land and developed land that, in the opinion of the planning agency, i.e., the Planning Division together with its Planning Commission as defined in RCW 36.70.020(13)(b), is likely to be redeveloped.

3. 16B.02.055 "Day."

Direction: Modify the definition of "Day" to read as follows:

16B.02.055 "Day" means calendar day ~~((unless specified otherwise)). For purposes of computing any period of time, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the ((period so)) computed ((shall be)) period is included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the ((end)) close of Planning Division business on the next day which is neither a Saturday, a Sunday, or a legal holiday. ((When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.))~~

4. 16B.02.082 "Optional Consolidated Permit Review."

Direction: Modify the definition of "Optional Consolidated Permit Review" to read as follows:

16B.02.082 "Optional consolidated permit review" means that process authorized by RCW 36.70B.060 and 36.70B.120 which is the integrated and consolidated review and decision on two or more project permits relating to a proposed project action, including a single application review and approval process covering all project permits requested by an applicant for all or part of a project action. ((and a designated permit coordinator.))

5. 16B.03.030, Table 3-1 references to appeals of Type 3 decisions.

Direction: Modify the YCC 16B.03.030, Table 3-1 to read as follows:

Table 3-1 Procedures for Type ((I)) 1, ((H)) 2, ((HH)) 3, and ((IV)) 4 Permit Applications [Excerpt]

Process Type	Public Notice	Recommending Body	Open Record Hearing Body	Decision Maker	Appeal Body
Type ((HH)) 3	Yes	Administrative Official	Hearing Examiner	Hearing Examiner ((-))	BOCC (Closed Record Hearing)

Note: ¹ ~~((Type 3 decisions and))~~ Appeal determinations by the Hearing Examiner on Type ~~((I and H))~~ 2 applications may be further appealed to the Board of Yakima County Commissioners for a closed record appeal in accordance with YCC 16B.09.050. Appeal determinations of the Hearing Examiner on Type 1 appeals shall be final and binding and not subject to further administrative appeal. Final administrative decisions may be appealed to ~~((Washington State))~~ Superior Court pursuant to Ch. 36.70C RCW, unless state law provides for a different appeal process.

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)

6. 16B.03.040, Table 3-2 references to Nonconforming uses (NCUs) and structures.

Direction: Modify YCC 16B.03.040, Table 3-2 to read as follows:

Table 3-2 Table of Procedural Classifications [Excerpt]

Title 16A, 16C and 16D - Yakima County Critical Areas Ordinance and Yakima County Regional Shoreline Master Program	
Application	Process Type
<u>Non-Conforming Use ((/Facility)) Alteration</u>	<u>Type 2 ^(6 5)</u>
<u>Non-Conforming Structures or Areas</u>	<u>Type 2 ⁽⁶⁾</u>

(...)

Notes: [...]

(5) The term "alteration" in a zoning context may include changing from one nonconforming use to another nonconforming use, but does not include intensification. Nonconforming use expansions and alterations under YCC Title 15 are categorized as Type 2 applications. Certain nonconforming use alterations may not be subject to additional critical area or Shoreline review as described in YCC 16C.03.26(2)(b) and 16D.03.26 (2)(b).

(6) No additional critical area or Shoreline review is required if the reconstruction cost of a conforming use with a nonconforming ((use or facility)) structure or area is less than 75 percent of value before damage or destruction. See YCC 16C.03.26(2)(a) and 16D.03.26(2)(a).

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)

7. 16B.03.070 Administrative Interpretations.

Direction: Modify the definition of "Administrative Official" to read as follows:

16B.03.070 Administrative Interpretations. Upon request the applicable official designated in Subsections 2 through 4 of this Section shall issue a formal written interpretation of a development regulation. The purpose of an interpretation is to clarify conflicting or ambiguous wording or the scope or intent of the County Code. [...]

~~((A))~~(2) The Administrative Official ~~((or his/her designee,))~~ shall interpret and apply the provisions of YCC Title 14 - Subdivision Code, Title 15 County Zoning Code, Title 15A - Yakima County Urban Growth Area Zoning Ordinance, Title 16 ((SEPA)) Environment, ((and)) Titles 16A and 16C - Critical Areas Ordinances, Title 16B – Project Permit Administration, and Title 16D – Yakima County Regional Shoreline Master Program. Interpretations shall be first presented to the Administrative Official but are subject to appeal to the Hearing Examiner. [...]

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)

8. 16B.05.020 Military Installation Notice.

Direction: Modify YCC 16B.05.020(2) to read as follows:

16B.05.020 Contents of Notice of Application and Other Notices.

The Notice of Application and other notices required in this Chapter shall include the items required by RCW 36.70B.110 (2) and the following: [...]

~~((E))~~ (2) A statement of the limits of the public comment period, which shall be fourteen calendar days following the date of the Notice of Application, unless a greater comment period is required by state law, except that a 30-day comment period shall be provided ((to the installation commander of the Yakima Training Center)) in the event of any project permit or action located within 500 feet of the perimeter of the Yakima Training Center. Nothing in this Section shall preclude the County from accepting public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit; [...]

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)

9. 16B.05.030 Public Notice.

Direction: Modify YCC 16B.05.030(3)(c) to read as follows:

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

~~((E))~~(3) Notice of Application or Notice of Site-Specific Policy Plan Map Amendment – ~~((First-Class))~~ Mailing. [...]

~~(c)~~ The written Notice of Application shall be sent through first-class mail ~~((postcard, electronic mail or any combination of these methods))~~. The County may, however, provide notification by electronic mail when requested by the recipient. [...]

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)

10. 16B.06.070 Appeals of SEPA Determinations.

Direction: Modify YCC 16B.06.070(1) to read as follows:

[...] ~~((A))~~(1) Types of Appeals. ~~((Threshold))~~ Appeals under the provisions of this Section shall be limited solely to procedural determinations listed in Subsection 16B.06.070(1)(a) below and/or substantive determinations, as defined in ((YCC 16.04.04(6)) YCC 16.04.040(8), within those procedural determinations listed below. Administrative appeals of threshold determinations on Type 1 or 2 project permits or on legislative actions are not allowed. [...]

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)

11. 16B.07.010 Notice of Decision -- Public Notice.

Direction: Modify YCC 16B.07.010 to read as follows:

16B.07.010 Notice of Decision -- Public Notice. The Notice of Decision shall be a single report which complies with RCW 36.70B.130 and states all the decisions made on all project permits that are a part of the application. The County shall provide notice of its decision by first-class mail, ((postcard, or electronic mail or any combination of these methods))to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application in accordance with RCW 36.70B.130. The County may, however, provide notification by electronic mail when requested by the recipient. The Notice of Decision shall state any mitigation required under applicable development regulations or under SEPA. If a SEPA threshold determination has not been issued previously by the local government, the Notice of Decision shall include this determination. Notice of administrative appeal procedures, if applicable, shall also be included in the Notice of Decision.

12. 16B.08.050 Hearing Examiner Decisions and Recommendations.

Direction: Modify YCC 16B.08.050 to read as follows to coordinate Hearing Examiner timeframes with the definition of Day in 16B.02:

16B.08.050 Hearing Examiner Decisions and Recommendations. [...]

((~~6~~))(3) Each final decision of the Hearing Examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing body, shall be rendered within ~~((ten-working))~~ fourteen days following the conclusion of all testimony and the hearing on the project permit application. [...]

(Note: The remaining text in this section is unchanged from previously proposed text in Exhibit A.)