

1 County of Yakima, WA

2 **16C.01.0116C.01.04**

3

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11 **GENERAL PROVISIONS**

12 **16C.01.01. Title and Authority.**

13 ~~Yakima County Code (YCC) Title 16C is established pursuant to RCW 36.70A.060~~

14 ~~(Growth Management Act Natural resource lands and critical areas—Development~~

15 ~~regulations), RCW Chapter 43.21C (State Environmental Policy Act), RCW 86.16, and~~

16 ~~federal requirements for eligibility in the National Flood Insurance Program, pursuant to~~

17 ~~the Code of Federal Regulations (CFR) 44CFR, Parts 59 and 60. This title shall be known~~

18 ~~as the "Critical Areas Ordinance of Yakima County, Washington."~~

19 ~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

20 ~~13-2007 § 1 (Exh. A)(16C.01.01), 2007)~~

21 **16C.01.02. Language Interpretation.**

22 Unless specifically defined in Chapter 16C.02, words, phrases and terms in this title shall

23 be interpreted so as to give them the meaning they have in common usage and to give

24 this title its most reasonable application. "Shall" is mandatory; "may" is discretionary and

25 does not impose a requirement; "should" is always advisory; "include(s)" means includes

26 but not limited to. When not inconsistent with the context, words used in the present tense

27 include the future; the singular includes the plural; and the plural, the singular.

28 ~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

29 ~~13-2007 § 1 (Exh. A)(16C.01.02), 2007)~~

30 **16C.01.03. Purpose of Title.**

31 The purpose of Title 16C is the following:

32 (1) Designate, protect, and maintain the function and values of ~~critical areas~~ and give

33 special consideration to conservation or protection measures necessary to reserve

34 or enhance anadromous fisheries.

35 (2) Ensure a single, uniform system of procedures and standards be applied to

36 development within designated ~~critical areas~~ of unincorporated Yakima County.

37 ~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

38 ~~13-2007 § 1 (Exh. A)(16C.01.03), 2007)~~

39 **16C.01.04. Intent of Title.**

40 ~~(1) Title 16C establishes policies, standards, and other provisions pertaining to~~

41 ~~development within designated critical areas regulated under the provisions of the~~

42 ~~Growth Management Act (RCW 36.70A), and development regulated under the~~

43 ~~National Flood Insurance Program and RCW 86.16. Additional purpose and intent~~

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1 for the protection of critical areas is provided in the chapter on each subject. Stream  
2 corridors, frequently flooded areas, wetlands, critical aquifer recharge areas,  
3 geologically hazardous areas and fish and wildlife habitat areas constitute Yakima  
4 County's critical areas. These areas are of special concern to the people of Yakima

3  
4 County and the state of Washington because they are environmentally sensitive  
5 lands, or hazardous areas, which compose an important part of the county's natural  
6 resource base. The policies, standards and procedures of this title are intended to:

7 (a) Preserve development options within designated critical areas where such  
8 development will not adversely impact critical area values and functions,  
9 particularly the functional properties of stream corridors and other  
10 hydrologically related critical areas;

11 (b) Prevent further degradation of critical areas;

12 (c) Conserve, protect and, where feasible, restore essential or important natural  
13 resources;

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

15 (e) Further the goals and objectives of the Yakima County Comprehensive Plan  
16 and all of its elements;

17 (f) Implement the goals and requirements of the Washington Growth Management  
18 Act (RCW Chapter 36.70A), and the National Flood Insurance Program;

19 (g) Recognize and protect private property rights;

20 (h) Provide development options for landowners of all existing lots to the greatest  
21 extent possible, through the establishment of Adjustment, Reasonable Use  
22 provisions and Non-Conforming Use and Facility provisions;

23 (i) Recognize that mining and related uses are an appropriate use within  
24 designated critical areas when conducted in a manner consistent with the laws  
25 of the state that already govern mining including, but not limited to, the Surface  
26 Mining Act, RCW Chapter 78.44.

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

28 (a) Are not intended to regulate the operation and maintenance of existing, legally  
29 established uses and structures, including but not limited to vegetative  
30 management zones on existing uses that have been reduced in width prior to  
31 the effective dates of provisions in the Critical Areas Ordinance;

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

33 (c) Are not intended to retroactively require the restoration of degraded critical  
34 areas for properties in a degraded condition prior to the effective dates of  
35 provisions in the Critical Areas Ordinance; but rather to utilize restoration as a  
36 tool to mitigate impacts of new development;

Commented [NS1]: keep this? relevant?

37 Are not intended to presume that regulatory tools are the only mechanism for protection, but  
38 rather integrated with non-regulatory tools in as balanced a manner as possible;

Commented [KW2]: Take all cao stuff out?

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(d) Are not intended to prohibit the use of valid water rights.  
(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.01.04), 2007)

**16C.01.05. Applicability.**

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

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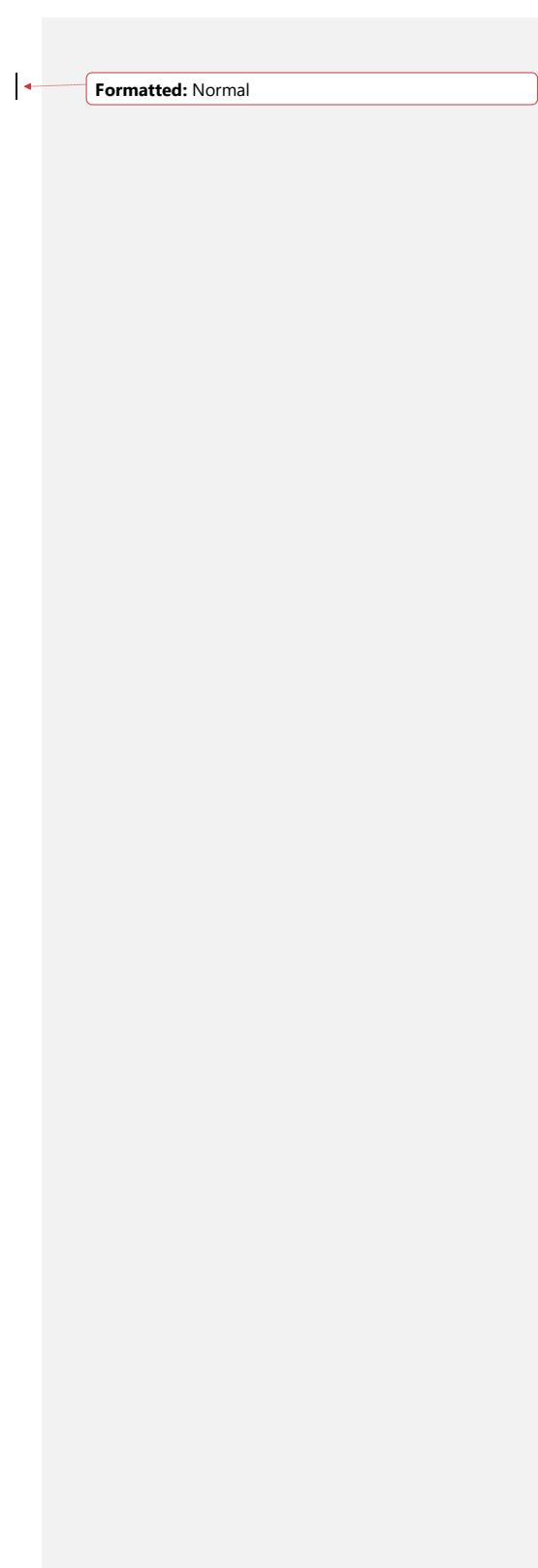
(a) Within critical areas designated by this title or amendments that may later be adopted, there may exist lots, structures and uses which were lawfully established before this title was initially adopted, amended or readopted, as provided below, but which would be subsequently prohibited, regulated or restricted under this title. It is the intent of this title to permit these pre-existing legal nonconformities to continue without requirement to change said nonconformity until such time as conformance is required through permits for development in the future. The adoption and amendment dates of the relevant regulations are provided below:

- (i) Critical Areas Ordinance adopted July 12, 1994 (YCC Title 16A);
- (ii) Critical Areas Ordinance amended October 1, 1995 (YCC Title 16A);
- (iii) Flood Hazard Ordinance adopted June 5, 1985;
- (iv) Critical Areas Ordinance amended December 15, 2007 (GMA Update—YCC Title 16C);
- (v) Critical Areas Ordinance amended June 30, 2017 (GMA Update—YCC Title 16C);
- (vi) Critical Areas Ordinance amended December 17, 2019 (Repeal of 16A).

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

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

(d) Livestock grazing on publicly owned land, when carried out under an



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adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation (RCW 36.70A.703(1) and RCW 90.58.065).

(e) If the approved work plan by the Washington State Conservation Commission fails to meet goals, benchmarks, or receive adequate funding, the provisions and policies of this title will apply to agricultural activities (RCW 36.70A.735).

(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 10 2019 (Exh. 1) (part), 2019; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Res. 80 2016 (Exh. A) (part), 2016; Ord. 13 2007 § 1 (Exh. A)(16C.01.05), 2007)

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

This title has been updated consistent with the requirements for:

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

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

(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 §§ 2(C) (Exh. 1) (part), 1 2017; Ord. 13 2007 § 1 (Exh. A)(16C.01.06), 2007)

**16C.01.08. Administrative Authority.**

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

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

(b) A written request for interpretation of any provision of this title, or any rule or

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.01.08), 2007)~~

**16C.01.09. Severability.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.01.09), 2007)~~

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**CHAPTER 16C.0222.01**  
**DEFINITIONS**

**§ 2216C.012.001. Definitions Generally.**

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

(2) Definitions listed in this chapter shall be applied to all critical areas, including Flood Hazard Areas, unless the definition itself identifies the term as applying to Flood Hazard administration, in which case the definition only applies to that situation.  
(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.001), 2007)

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**§ 2216C.012.0015. Abutting.**

"Abutting" means bordering upon, to touch upon, or in physical contact with. Sites are considered abutting even though the area of contact may be only a point.  
(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.005), 2007)

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**§ 2216C.012.00510. Adjacent.**

"Adjacent" means to be nearby and not necessarily abutting.  
(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.010), 2007)

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**§ 2216C.012.00812. Administrative Official.**

"Administrative Official" means the duly appointed planning division manager of the public services department, or his designee, or the relevant decision maker identified in YCC Title 16B (Project Permit Administration); synonymous with "administrator" or "director."  
(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.012), 2007)

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**§ 2216C.012.00920. Agricultural Activities.**

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

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§ 16C.02.020 § 16C.02.036

~~conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017)~~

**§ 2216C.012.01025. Alluvial Fan.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.025), 2007)~~

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**§ 2216C.012.01527. Alteration of Watercourse.**

"Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

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**§ 2216C.012.02029. Appeal.**

"Appeal" means a request for a review of the interpretation of any provision of this title or a request for a variance.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

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**§ 16C.0222.01.02530. Applicant.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.030), 2007)~~

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**§ 16C.0222.01.02735. Aquifer.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.035), 2007)~~

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**§ 16C.0222.01.0306. Areas of Shallow Flooding.**

"Areas of shallow flooding" means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also

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referred to as the sheet flow area.

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2 § 16C.02.036 § 16C.02.044

3  
4 flow may be evident. Such flooding is characterized by ponding or sheet flow. Also  
5 referred to as the sheet flow area.

6 (Ord. 8-2021 § 2(C) (Exh. 1), 2021)

7 **§ 16C.0222.01.0357. Areas of Special Flood Hazard Area.**

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8 "Areas of special flood hazard area" means the land in the floodplain within a community  
9 subject to a 1 percent or greater chance of flooding in any given year. It is shown on the  
10 Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO,  
11 V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area  
12 of special flood hazard."

13 (Ord. 8-2021 § 2(C) (Exh. 1), 2021)

14 **§ 16C.0222.01.04038. ASCE 24-24, Flood Resistant Design and Construction.**

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15 "ASCE 24-24" means the most recently published version of ASCE 24, Flood  
16 Resistant Design and Construction, published by the American Society of Civil  
17 Engineers. Published by the American Society of Civil Engineers. This standard provides  
18 minimum requirements for flood resistant design and construction of structures in flood  
19 hazard areas, including the expanded flood hazard area encompassing the 500-year  
20 floodplain, and establishes Design Flood Elevation as the greater of the elevation set by  
21 the community or the elevation pertaining to the MRI flood event for the Flood Design  
22 Class plus Sea Level Rise."

23 (Ord. 8-2021 § 2(C) (Exh. 1), 2021)

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since it is considered BAS. Def addition is from ASCE 24-24  
MOS

24 **§ 16C.02.040. Critical Aquifer Recharge Area.**

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

28 (Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.  
29 13-2007 § 1 (Exh. A) (16C.02.040), 2007)

30 **§ 16C.0222.01.0452. Bank.**

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

33 (Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.  
34 13-2007 § 1 (Exh. A) (16C.02.042), 2007)

35 **§ 16C.0222.01.05043. Bankfull depth.**

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

41 (Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.  
42 13-2007 § 1 (Exh. A) (16C.02.043), 2007)

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43 **§ 16C.0222.01.05544. Base Flood.**

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~~§ 16C.02.044~~ § 16C.02.070

~~13-2007 § 1 (Exh. A) (16C.02.044), 2007~~

## **§ 16C.0222.01.06045. Base Flood Elevation.**

"Base flood elevation" for purposes of administering Chapters 16C.0522.03.20 through 16C.0522.03.72 means the elevation to which floodwater is anticipated to rise during the base flood. (Ref. IBC 1612.2.)

(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.

~~13-2007 § 1 (Exh. A) (16C.02.045), 2007)~~

## § 16C.0222.01.06546. Basement.

"Basement" for purposes of administering Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 1612.2.)

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A) (16C.02.046), 2007~~

**§ 16C.0222.01.07055.** Bed.

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A) (16C.02.055), 2007~~

## § 16C.0222.01.07160. Bedrock.

"Bedrock" means in-place solid rock.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~(Ord. 8 2021 § 2(c) (Exh. 1), 2021; Ord. 13-2007 § 1 (Exh. A) (16C-02-060), 2007)~~

§ 16C.0222.01.07565. Berm.

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~(Ord. 8-2021 § 2(c) (Exh. F), 2021; Ord. 13-2007 § 1 (Exh. A) (16C-02-065), 2007)~~

## § ~~16C.02~~22.01.08067. Best Management Practices.

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

(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.

~~13-2007 § 1 (Exh. A) (16C.02.067), 2007~~

~~§ 16C.02.070~~ ~~§ 16C.02.095~~

**§ 16C.0222.01.08170. Bioengineering.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.02.070), 2007)~~

**§ 16C.0222.01.08275. Breakwater.**

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

**22.01.083. Bridge.**

"Bridge" is an elevated structure designed by a professional engineer that spans a depression or obstruction (such as a river) and provides a passageway for traffic.  
~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.02.075), 2007)~~

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**§ 16C.0222.01.0840. Bulkhead.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.02.080), 2007)~~

**§ 16C.0222.01.085. Channel.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.02.085), 2007)~~

**§ 16C.0222.01.090. Channel Migration Zone.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017)~~

**§ 16C.0222.01.0952. Chief Building Official**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.02.092), 2007)~~

~~§ 16C.02.095~~ ~~§ 16C.02.125~~

**§ 16C.0222.01.10095. Classification.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.095), 2007)~~

**§ 16C.0222.01.1050. Clearing.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.100), 2007)~~

**§ 16C.0222.01.110. Compaction.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.110), 2007)~~

**§ 16C.0222.01.1115. Confinement Feeding Operation.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.115), 2007)~~

**§ 16C.0222.01.11520. Construction.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.120), 2007)~~

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**§ 16C.0222.01.11622. Critical Areas.**

"Critical Areas" include the following areas and ecosystems:

- (1) Wetlands;
- (2) Areas with a critical recharging effect on aquifers used for potable water;
- (3) Fish and wildlife habitat conservation areas;
- (4) Frequently flooded areas; and
- (5) Geologically hazardous areas.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017)~~

~~§ 16C.02.125~~ ~~§ 16C.02.150~~

**§ 22.01.117. Critical Aquifer Recharge Area.**

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

**22.01.118. Crossing.**

"Crossing" means a specified area that allows vehicle travel over a waterway (ie culvert, bridge, ford, etc.).

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**22.01.119. Culvert.**

"Culvert" is an enclosed structure designed to convey water under a road, railway, or other obstruction. Typically in the form of pipes or box-shaped structures made of concrete or corrugated metal.

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~~13-2007 § 1 (Exh. A)(16C.02.125), 2007~~

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**§ 16C.0222.01.12030. Department.**

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

**§ 16C.0222.01.1215. Design Flood Elevation.**

"Design Flood Elevation" means the benchmark elevation for the lowest part of the structure, ensuring adequate flood protection (ASCE 24-24).

**§ 16C.0222.01.1225. Designated.**

"Designated" means formal legislative action to identify and describe a critical area. ~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

**§ 22.0222.01.123. Designee.**

"Designee" means one that is designated. Can be tracked by internal memo if used for official positions.

**Commented [NS6]:** not sure if this definition is necessary.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.130), 2007)~~

**§ 16C.0222.01.1305. Development.**

"Development" means the division of land into lots or parcels and any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, clearing, paving, excavation or drilling operations, storage of equipment or materials, or any other activity which results in the removal of vegetation or in the alteration of natural site characteristics. For floodplain management purposes, "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard. ~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A)(16C.02.135), 2007~~

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**§ 16C.0222.01.13540. Dike.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.140), 2007)~~

**§ 16C.0222.01.1405. Dock.**

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

**22.01.145. Drainage Ways.**

**"Drainage Ways"** are open linear depression which functions for the collection and drainage of surface water. It may be permanently or temporarily inundated and may or may not contain aquatic vegetation or aquatic life.

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.145), 2007)~~

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**§ 16C.0222.01.150. Dredging.**

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

County of Yakima, WA

**§ 16C.02.150§ 16C.02.200**

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.150), 2007)~~

**§ 16C.0222.01.15560. Earth Material.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.160), 2007)~~

**§ 16C.0222.01.1605. Elevation Certificate.**

"Elevation Certificate" is an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

**22.01.163. Engineering Survey.**

"Engineering Survey" is a survey done by a licensed engineer in the state of Washington. Surveys assess flood risk, determine floodplain boundaries, assess culvert and bridge safety requirements. Also known as Hydraulic and Hydrologic survey (H&H survey).

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**§22.01.164. Environmental Justice.**

"Environmental Justice" means the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in environmental decisions, aiming to eliminate disproportionate impacts, ensure equitable benefits, and provide the same degree of protection from hazards for all communities, prioritizing vulnerable populations in policy and enforcement.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

**§ 16C.0222.01.16570. Enhance.**

"Enhance" means to strengthen any of the basic functional properties listed in Section 16C.22.06.05 that exist but do not perform at optimum efficiency. "Optimum" refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.170), 2007)~~

**§ 16C.0222.01.1705. Ephemeral Stream.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.175), 2007)~~

**§ 16C.0222.01.17580. Erosion.**

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

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.180), 2007)

**§ 16C.0222.01.1890. Excavation.**

"Excavation" means the mechanical removal of earth material.

**22.01.185. Federal Emergency Management Agency.**

"Federal Emergency Management Agency (FEMA)" is the agency responsible for administering the National Flood Insurance Program. Fish and Wildlife Habitat Conservation Area: lands needed to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. These areas are designated by the Yakima County pursuant to the Washington State Growth Management Act (WAC 365-190-080).

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.190), 2007)

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~~§ 16C.02.200~~ ~~§ 16C.02.204~~

**§ 16C.0222.01.190200. Fill.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.200), 2007)~~

**§ 16C.0222.01.195203. Fish and Wildlife Habitat Conservation Areas.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017)~~

**§ 16C.0222.01.2004. Flood or Flooding.<sup>1</sup>**

"Flood" means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters.
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (c) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

(2)

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1. **Code reviser's note:** This section, set out in Ord. 8-2021 as Section ~~46C.02~~22.01.205, has been editorially renumbered to accommodate additions by Ord. 8-2021 and preserve alphabetization.

~~§ 16C.02.204~~ ~~§ 16C.02.210~~

~~unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.~~

**22.01.201. Flood Design Class.**

"Flood Design Class" is a classification of buildings and other structures for determination of flood loads and conditions, and determination of minimum elevation requirements on the basis of risk associated with unacceptable performance. Flood design classes of buildings are as specified in Table 1-1 of ASCE 24-24.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.205), 2007; Formerly 16C.02.205)~~

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**§ 16C.0222.01.205. Flood Elevation Study.**

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

**22.01.206. Flood Hazard Area.**

"Flood Hazard Area (FHA)" is an area subject to flooding defined as the larger of (1) the lands within the mapped 500-year floodplain (0.2% or greater chance of flooding in any year, including the 1% floodplain) on a FIRM, and (2) the Special Flood Hazard Area.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

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**§ 16C.0222.01.21006. Flood Hazard Permit.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.206), 2007)~~

**§ 16C.0222.01.21507. Flood Insurance Rate Maps.**

"Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. Preliminary updated Flood Insurance Rate Maps are maps that have been accepted by FEMA, but are not yet effective. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.207), 2007)~~

**§ 16C.0222.01.22008. Flood Insurance Study.**

"Flood insurance study." See "Flood Elevation Study."

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.208), 2007)~~

**§ 16C.0222.01.22509. Floods of Record.**

"Floods of Record" are areas identified as inundated during the flood of record, identification of areas subject to flooding, or stream systems where the path of

floodwaters can be unpredictable.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017)~~

**§ 16C.0222.01.23040. Floodplain or Flood-Prone Area.**

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding."

1. 10 year floodplain: the base flood elevations that has a 10% chance of occurring in any given year.
2. 25 year floodplain: the base flood elevation that has a 5% chance of occurring in any given year.
3. 50 year flood: the base flood that has a 2% chance of occurring in any given year.
4. 100 year flood: standard. The base flood elevation that has a 1% chance of happening in any given year.
5. 500 year flood: the base flood elevation that has a 0.2% chance of happening in any given year.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

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~~§ 16C.02.210~~

~~§ 16C.02.240~~

~~13-2007 § 1 (Exh. A)(16C.02.210), 2007~~

**§ 16C.0222.01.23512. Floodplain Administrator.**

"Floodplain administrator" means the community official designated by title to administer and enforce the floodplain management regulations.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

**§ 16C.0222.01.24016. Flood-proofing.**

"Flood-proofing" for purposes of administering Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~ means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A)(16C.02.216), 2007~~

**§ 16C.0222.01.24520. Floodway.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A)(16C.02.220), 2007~~

**§ 16C.0222.01.25025. Floodway Fringe.**

"Floodway fringe" for purposes of administering Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~ means that portion of a floodplain which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A)(16C.02.225), 2007~~

**§ 16C.0222.01.25130. Forest Land.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A)(16C.02.230), 2007~~

**§ 16C.0222.01.25240. Forest Practices.**

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

- (1) Road and trail construction, including forest practices hydraulic projects that include water crossing structures, and associated activities and maintenance;
- (2) Harvesting, final and intermediate;

~~§ 16C.02.240~~ ~~§ 16C.02.255~~

- (3) Pre-commercial thinning;
- (4) Reforestation;
- (5) Fertilization;
- (6) Prevention and suppression of diseases and insects;
- (7) Salvage of trees; and
- (8) Brush control.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.240), 2007)~~

**§ 16C.0222.01.25545. Frequently Flooded Areas.**

"Frequently flooded areas" are defined by:

- (1) Flood Insurance Rate Maps (FIRM) from FEMA;
- (2) Preliminary updated FIRM maps from FEMA;
- (3) Floods of record;
- (4) Mapped channel migration zones; and
- (5) Flood-prone.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017)~~

**22.01.257. Ford.**

"Ford" means a shallow or dry place with good footing where a river or stream may be crossed by vehicle.

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**§ 16C.0222.01.26047. Functionally Dependent Use.**

"Functionally dependent use" is a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

**§ 16C.0222.01.26550. Grade.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A)(16C.02.250), 2007~~

**§ 16C.0222.01.27055. Grading.**

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

§22.01.271. Green Infrastructure.

"Green Infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

~~§ 16C.02.255§ 16C.02.263~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.255), 2007)~~

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**§ 16C.0222.01.27560. Groundwater.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.260), 2007)~~

**§ 16C.0222.01.27661. Hazardous Materials.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A (5)), 2007)~~

**§ 16C.0222.01.28062. Highest Adjacent Grade.**

"Highest adjacent grade (HAG)" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

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**§ 16C.0222.01.28563. Historic Structure.**

"Historic structure" is any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior,

~~§ 16C.02.263~~ ~~§ 16C.02.281~~

or

(b) Directly by the Secretary of the Interior in states without approved programs.  
(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021~~)

**§ 16C.02.265. Hydrologically Related Critical Areas (HRCA).**<sup>2</sup>

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

**22.01.287. Hydrologic and Hydraulic Study.**

"Hydrologic and Hydraulic Study (H&H study)" is a comprehensive analysis of the movement, volume, and rate of water flow through a watershed, basin, channel, or constructed conveyance system, prepared by a professional engineer licensed in Washington State in accordance with the Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Title for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act (FEMA Region X, 2010), and designed to support FEMA mapping standards under 44 CFR Part 65.

**§ 22.01.290. Hydrologically Related Critical Areas (HRCA).**<sup>2</sup>

"Hydrologically related critical areas (HRCA)" include all those areas identified in Section 22.06.03, within Yakima County which are important and deserving of protection by nature of their value for the functional properties found in Section 22.06.05.

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.263), 2007; Formerly 16C.02.263~~)

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**§ 16C.02.22.01.295.66. Hyporheic.**

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

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.266), 2007~~)

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**§ 16C.02.22.01.300.270. Intermittent Streams.**

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

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.270), 2007~~)

**§ 16C.02.22.01.305.275. Lake or Pond.**

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

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A)(16C.02.275), 2007~~

**§ 16C.0222.01.310281. Lowest Floor.**

"Lowest floor" for purposes of administering Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title (i.e. provided there are adequate flood ventilation openings).

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2. Code reviser's note: This section, set out in Ord. 8-2021 as Section ~~16C.02~~22.01.263, has been editorially renumbered to accommodate additions by Ord. 8-2021 and preserve alphabetization.

**§ 16C.02.281** **§ 16C.02.285**

of the applicable non-elevation design requirements of this title (i.e. provided there are adequate flood ventilation openings).

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.281), 2007~~)

**§ 16C.0222.01.315** **282. Manufactured Home.**

"Manufactured home" means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) and Yakima County Code Titles 13 and 19 separately define and distinguish between "manufactured home" and "mobile home" according to federal or state construction codes for such dwellings, the term "manufactured home" shall include "mobile home" for regulatory purposes under this title. The term shall not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law. For floodplain management purposes only under this title, park trailers, camping vehicles, travel trailers, tip-outs, and other similar vehicles shall be considered manufactured homes when placed on a site for greater than one hundred eighty days.

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.02.282), 2007~~)

**§ 16C.0222.01.320** **283. Manufactured Home Park or Subdivision.**

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

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.02.283), 2007~~)

**§ 16C.0222.01.325** **284. Manufactured Home Park or Subdivision, Existing.**

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

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.284), 2007~~)

**§ 16C.0222.01.330** **285. Mean Sea Level.**

"Mean sea level" means, for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Maps are referenced.

~~§ 16C.02.285~~ ~~§ 16C.02.303~~

**Rate Map are referenced.**

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

**§ 16C.0222.01.335288. Minerals.<sup>3</sup>**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.285), 2007; Formerly 16C.02.285)~~

**§ 16C.0222.01.340290. Mining.**

"Mining" means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation (Section ~~16C.22.06.20~~).

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.290), 2007)~~

**§ 16C.0222.01.345295. Native.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

**22.01.350. National Flood Insurance Program.**

"National Flood Insurance Program (NFIP)" is a federal program managed by the Federal Emergency Management Agency (FEMA) that provides flood insurance to property owners in participating communities.~~13-2007 § 1 (Exh. A) (16C.02.295), 2007~~

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**§ 16C.0222.01.35500. Natural Conditions.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

**22.01.360. Natural Drainage Ways**

"Natural Drainage Ways" are a drainages consisting of native soils such as a natural swale or topographic depression which gathers or conveys run-off to a permanent or intermittent watercourse or waterbody. May or may not contain aquatic vegetation or aquatic life.

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**22.01.365. Natural Floodplain Functions.**~~13-2007 § 1 (Exh. A) (16C.02.300), 2007~~

"Natural Floodplain Functions" are the contributions that floodplains make to support habitat, including, but not limited to, providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations, and providing breeding and feeding grounds, shelter, and refugia, for aquatic or riparian species.

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**§ 16C.0222.01.3702. New Construction.**

"New construction" for purposes of administering Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 for the purposes of determining insurance rates, means structures for which the "start of construction" commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program. October 1, 1995, the effective date of the amended ordinance codified in Title 16A shall be used for defining the term "new construction" as it applies to all other critical areas requirements established under Title 16A by Ordinance 8-1995.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 10-2019 (Exh. 1) (part), 2019; Ord. 5-2017~~

~~§ 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.302), 2007~~

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**§ 16C.0222.01.37503. Nonconforming Structure.**

"Nonconforming structure" for purposes of administering Chapters ~~16C.05~~22.03.20 through ~~22.03~~.72 means a structure which was legally constructed prior to October 1, 1995, the effective date of the amended Title 16A, but which would not be permitted as a new structure under the terms of this title because the structure is not in conformance with the applicable elevation and/or flood-proofing requirements.

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3. Code reviser's note: This section, set out in Ord. 8-2021 as Section ~~16C.0222.01.285~~, has been editorially renumbered to accommodate additions by Ord. 8-2021 and preserve alphabetization.

§ 16C.02.303 § 16C.02.324

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 10-2019 (Exh. 1) (part), 2019; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.303), 2007)~~

**§ 16C.0222.01.38004. Nonconforming Use.**

"Nonconforming use" for purposes of administering Chapters 16C.0522.03.20 through ~~16C.0522.03.72~~ means the use of a building, structure or land which was lawfully established, existing and maintained at the effective date of provisions of this title but which, because of the application of this title to it, no longer conforms to the use or applicable elevation and/or flood-proofing requirements of this title and which would not be permitted as a new use under the terms of this title.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.304), 2007)~~

**§ 16C.0222.01.38505. Ordinary High Water Mark (OHWM).**

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

**§ 16C.0222.01.38605. Overburdened Communities.**

"Overburdened Communities" means a geographic area where vulnerable populations face significant, combined environmental harms and health impacts.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.305), 2007)~~

**§ 16C.0222.01.39010. Perennial Stream.**

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

**22.01.395. Primary Crossing.**

"Primary Crossing" means an area or structure that allows vehicle travel over a waterway, servicing a home, commercial entity, or business. Can be by means of bridge or culvert depending on the waterway designation.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.310), 2007)~~

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**§ 16C.0222.01.400320. Project Site.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.320), 2007)~~

**§ 16C.0222.01.405324. Qualified Professional.**

"Qualified professional" shall meet the following criteria:

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

**§ 16C.02.321 § 16C.02.325**

- (2) A qualified professional for stream corridors must have a bachelor's degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years' professional experience related to the subject species/ habitat type.
- (3) A qualified professional for geologically hazardous areas and preparation of geo-technical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.
- (4) A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.
- (5) A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.
- (6) A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.
- (7) A qualified professional for economic studies must have a bachelor's degree or higher in economics or business administration with five years of professional experience. The five-year standard shall be waived for professionals with a Ph.D degree.
- (8) A qualified professional for habitat assessments and habitat management plans must have a bachelor's degree or higher in biology and professional experience related to the subject species or habitat.
- (9) Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined to be acceptable to the Administrative Official.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 2-2009 § 2 (Exh. A (2)), 2009; Ord. 13-2007 § 1 (Exh. A) (16C.02.321), 2007)~~

**§ 16C.02.22.01.410 322. Recreation Vehicle.**

"Recreation vehicle" means a vehicle which is:

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.322), 2007)~~

~~§ 16C.02.325~~ ~~§ 16C.02.355~~

**§ 16C.0222.01.415325. Restore.**

"Restore" means to re-establish the basic functional properties listed in Section ~~16C.22.06.05~~ that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions nor to limit flood authorities' ability to make improvements necessary to alleviate flood risk, which may not allow for certain restoration activities or methods.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.325), 2007)~~

**§ 16C.0222.01.416330. Revetment.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.330), 2007)~~

**§ 16C.0222.01.420335. Riparian Areas.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.335), 2007)~~

**§ 16C.0222.01.342540. Riprap.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.340), 2007)~~

**§ 16C.0222.01.430345. Scour.**

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

**22.01.431. Secondary Crossing**

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"Secondary crossing" is an area or structure that allows vehicle travel across a waterway, specifically servicing private recreational areas on a property. Not to be used for business, home, or commercial services. Can be by means of bridge, culvert, ford, etc depending on the channel designation.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.345), 2007)~~

**§ 16C.0222.01.435355. Shoreline.**

"Shoreline," as used in this title, means those water areas, the associated features, and the land areas within Yakima County that are subject to the State Shoreline Management Act, especially as defined in [RCW90.58.030 \(definitions\)](#), and as further identified in [Section 16D.10.03 \(Shoreline Jurisdiction\)](#) of the Shoreline Master Program (YCC Title 16D).

**§ 16C.02.355§ 16C.02.367**

~~Act, especially as defined in RCW90.58.030 (definitions), and as further identified in Section 16D.10.03 (Shoreline Jurisdiction) of the Shoreline Master Program (YCC Title 16D).~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.355), 2007)~~

**§ 16C.0222.01.440360. Shore Stabilization.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.360), 2007)~~

**§ 16C.0222.01.441362. Shrub-steppe.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017)~~

**§ 16C.0222.01.445365. Slope.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.365), 2007)~~

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**§ 16C.0222.01.446366. Solid Waste.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.366), 2007)~~

**§ 16C.0222.01.450367. Special Flood Hazard Area.**

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

**§ 16C.02.367§ 16C.02.390**

~~flooding in any given year; commonly known as the 100 year floodplain.  
(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.  
13 2007 § 1 (Exh. A)(16C.02.367), 2007)~~

**§ 16C.0222.01.455368. Start of Construction.**

"Start of construction" for purposes of administering Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage, or sheds not occupied as dwelling units or not as part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.  
13 2007 § 1 (Exh. A)(16C.02.368), 2007)~~

**§ 16C.0222.01.460370. Stream.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.  
13 2007 § 1 (Exh. A)(16C.02.370), 2007)~~

**§ 16C.0222.01.465380. Stream Corridor.**

"Stream corridor," as used in this title, means those features listed and described in Section ~~16C.22~~06.03 and related appendices to this title.

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord.  
13 2007 § 1 (Exh. A)(16C.02.380), 2007)~~

**§ 16C.0222.01.470390. Structure.**

"Structure" means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height. The term also includes gas or liquid storage tanks when located principally above ground. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**§ 16C.02.390** **§ 16C.02.415**

**principally above ground, as well as a manufactured home.**  
~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.390), 2007)~~

**§ 16C.0222.01.475** **393. Substantial Damage.**

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

**§ 16C.0222.01.480** **395. Substantial Improvement.**

"Substantial improvement" for purposes of administering Chapters ~~16C.05~~ **22.03.20** through ~~16C.05~~ **22.03.72** means any repair, reconstruction, addition, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement to a structure to correct previously identified existing violations of state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 10-2019 (Exh. 1) (part), 2019; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.395), 2007)~~

**§ 16C.0222.01.485** **400. Use.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.02.400), 2007)~~

**§ 16C.0222.01.490** **410. Variance.**

"Variance" means a grant of relief by a community from the terms of a floodplain management regulation.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

**§ 16C.0222.01.495** **415. Vegetative Management zone or Management zone.**

"Vegetative management zone" or "management zone" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of a stream corridor, wetland and other hydrologically related critical areas as set forth in Section 22.06.05 (Functional Properties) and Section 22.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not always exist due to degradation of the vegetative management zone before establishment of this title,

or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

**§ 16C.0222.01.49605. Vulnerable Populations.**

“Vulnerable populations” means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food, adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

**§ 16C.02.415§ 16C.02.440**

~~forth in Section 16C.06.05 (Functional Properties) and Section 16C.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not always exist due to degradation of the vegetative management zone before establishment of this title, or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.~~ (Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.415), 2007)

**§ 16C.0222.01.500425. Wetland.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.425), 2007)~~

**§ 16C.0222.01.505430. Wildlife.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.430), 2007)~~

**§ 16C.0222.01.510435. Wildlife Habitat.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.435), 2007)~~

**§ 16C.0222.01.515440. Works.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.02.440), 2007)~~

**CHAPTER 16C.03  
APPLICATION AND REVIEW PROCEDURES**

**Article I  
General Provisions**

**16C.03.01. Critical Area Development Authorization Required.**

- (1) ~~No new development, construction or use shall occur within a designated critical area without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in Section 16C.03.05 (Minor Activities Allowed Without a Permit).~~
- (2) ~~With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within a designated critical area shall be processed according to the provisions of this chapter and the Project Permit Administration Ordinance (YCC Title 16B).~~
- (3) ~~Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by Yakima County. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.~~
- (4) ~~Permits issued in accordance with this title shall run with the land and conveyed to the applicant, their grantees, and assignees.~~
- (5) ~~Coordination with Other Jurisdictions.~~
  - (a) ~~Where all or a portion of a standard development project site is within a designated critical area and the project is subject to another local, state or federal development permit or authorization, then the Administrative Official shall determine whether the provisions of this title can be processed in conjunction with, and as part of, that local, state or federal development permit or authorization, or whether a separate critical area development authorization application and review process is necessary. The decision of the Administrative Official shall be based upon the following criteria:~~
    - (i) ~~The nature and scope of the project and the critical area features involved or potentially impacted;~~
    - (ii) ~~The purpose or objective of the permit or authorization and its relationship to protection of the critical area;~~
    - (iii) ~~The feasibility of coordinating the critical area development authorization with the permitting agency;~~
    - (iv) ~~The timing of the permit or authorization.~~

(b) When a determination has been made that provisions of this title can be handled through another applicable development permit or authorization

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process, project proponents will be required to provide any additional site plans, data and other information necessary as part of that process to fully evaluate the critical area project and ensure its compliance with this title. The Administrative Official's decision on the critical area development authorization shall be coordinated to coincide with other permits and authorizations.

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 6-2011 § 2 (Exh. A) (part), 2011; Ord. 13-2007 § 1 (Exh. A) (16C.03.01), 2007)

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## Article II Inquiry and Early Assistance

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

- (1) Prior to the review or consideration of any proposed development, construction or use, except those provided under Applicability (Section 16C.01.05), and Minor Activities Allowed Without a Permit (Section 16C.03.05), the County shall consider available information to determine if a critical area is likely to be present. The presence of a critical area found on the paper and electronic maps within or adjacent to the property proposed for development is sufficient foundation for the Administrative Official to require preparation of a critical area identification form, provided by the department, and a preliminary site plan. This critical area identification form and preliminary site plan may be one piece of information used to analyze how a critical area could be affected by a development proposal. To the extent possible, all critical area features must be identified on the critical area identification form and shown on the preliminary site plan prior to the Administrative Official determining whether the development is subject to this title.
- (2) Upon receipt of a critical area identification form and site plan, the Administrative Official will typically conduct a site examination to review critical area conditions on site. The Administrative Official shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner for the site examination during any proposal review, restoration, emergency action, or monitoring period.
- (3) The Administrative Official shall review available information pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal. If so, a more detailed critical areas report shall be submitted in conformance with Section 16C.03.17 (Critical Areas Report Requirements) and Section 16C.03.18 (Supplemental Report Requirements for Specific Critical Areas), except as provided below:
  - (a) No critical areas present. If the Administrative Official is able to sufficiently determine that a critical area does not exist within or adjacent to the project area, then a critical areas report is not required;

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

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

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

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

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

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

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

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

(i) ~~Determining the absence of a critical area (sometimes resulting when initial indicators show the likely presence of a critical area);~~

(ii) ~~Determining the existence, location and type of a critical area;~~

(iii) ~~Determining impacts of an encroachment on a critical area and general mitigation measures;~~

(iv) ~~Developing a compensatory mitigation plan for replacement or mitigation of lost wetland or stream channel area.~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 6-2011 § 2 (Exh. A) (part), 2011; Ord. 13-2007 § 1 (Exh. A) (16C.03.02), 2007)~~

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

~~Any new development, construction or use falling under the provisions of this title shall be subject to a pre-application conference, except that project review for flood hazards~~

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~~shall follow the pre application requirements established to administer Chapters 16C.05.20 through 16C.05.72 (Flood Hazard Areas). The department shall schedule a pre application conference for as soon as is reasonably possible to allow attendance by the project proponent and necessary staff. To assist in project review and discussion, prior to the pre application conference, the project proponent must submit a preliminary site plan showing the nature and scope of the proposed project along with any existing features of the property having a relationship to the project. The pre application conference is intended to allow the Administrative Official to:~~

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 6 2011 § 2 (Exh. A) (part), 2011; Ord. 13 2007 § 1 (Exh. A) (16C.03.03), 2007)~~

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

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

- ~~(1) Confirm and define the requirements of any other applicable local, state or federal~~

~~regulations;~~

(2) Clarify any identified procedural or regulatory conflicts and define the alternative courses of action available to the applicant in addressing project requirements;

(3) Determine whether compliance with other existing statutes and regulations will

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adequately address the provisions of this title;

(4) Provide the proponent with guidance, available data and information that will assist in complying with the provisions of this title and other ordinances and regulations;

(5) Provide the proponent with guidance concerning project modifications or site enhancements that would eliminate or minimize impacts to the critical area;

(6) Provide the proponent with alternatives for securing data, information, or assistance necessary to the project but not available through the pre-application conference;

(7) Determine whether a critical area report is necessary, and if so, the qualifications, skills and expertise required of a consultant to perform the special study.

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.04), 2007)

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**Article III**  
**Abbreviated Review Alternatives**

**16C.03.05. Minor Activities Allowed Without a Permit.**

(1) The following activities are included under Section 16C.01.05(1) (Applicability) and are allowed without a permit:

(a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its Hand removal/spraying of individual plants only; removal/spraying of individual plants only;

(i) No area wide vegetation removal/grubbing;

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

(c) The restoration of critical areas for habitat restoration projects that do not

~~include excavation or fill.~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 6-2011 § 2 (Exh. A) (part), 2011; Ord. 1-2011 § 2 (Exh. A (2A)), 2011; Ord. 2-2009 § 2 (Exh. A (3)), 2009; Ord. 13-2007 § 1 (Exh. A) (16C.03.05), 2007)~~

**16C.03.10. Mitigation Requirements.** Mitigation requirements shall follow the parameters laid forth in 16C.03.10.

(1) ~~All developments shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:~~

- (a) ~~Avoiding the impact altogether by not taking a certain action or parts of an action;~~
- (b) ~~Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;~~
- (c) ~~Rectifying the impact by repairing, rehabilitating or restoring the affected environment;~~
- (d) ~~Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;~~
- (e) ~~Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;~~
- (f) ~~Monitoring the impact and taking appropriate corrective measures.~~

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

(3) ~~Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and~~

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.10), 2007)~~

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**Article IV**  
**Review Process**

**16C.03.11. Application Submittal.**

(1) Application for a development authorization under this title shall be made on forms provided by the department. The application submittal shall include a site plan drawn to scale showing:

- (a) The actual shape and dimensions of the property site to be used;
- (b) Existing and proposed structures;
- (c) Excavation, fill, drainage facilities, topography, slope; and
- (d) Such other information as is needed to determine the nature and scope of the proposed development, including the maximum extent of the project site with respect to construction, excavation, equipment and material storage, and other project related work.

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

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

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.11), 2007)

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

(1) The Administrative Official shall determine from the application submittal, and other available information what type of permit or review is required under this title. The Administrative Official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing of any application needs. Available information used in this determination may include:

- (a) Critical areas identification form;
- (b) Pre application conference information;
- (c) Technical assistance conference information.

(2) Specific information on when a permit or review is required, its review process type

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

Table 3-1

**General Permits or Reviews**

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

**Specific Permits**

**Adjustment.** Administrative Adjustments are used outside Shoreline jurisdiction when a project needs to reduce or adjust a development standard.

**Non-conforming Use or Facility Alteration.** Non-conforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.

**Minor revisions to an Existing Permit.** Minor Revisions to an Existing Permit allow simplified review of certain changes to a project that has previously received a permit.

**Reasonable Use Exceptions.** Reasonable Use Exceptions provide an alternative to landowners when all reasonable use of a property has been prohibited.

**Flood Hazard Permit.** A Flood Hazard Permit is required for activities within floodplains. It is different in that it has special administrative provisions, and may include many of the specific permit types noted above within it, which are described in chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72. It is focused mainly on construction methods, but may include site design to minimize impacts to adjacent properties or resources, or to locate the proposed development in areas where depth and velocity of floodwaters during the base flood do not exceed the current standards for construction of human occupied structures or safe access.

(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 6 2011 § 2 (Exh. A) (part), 2011; Ord. 13 2007 § 1 (Exh. A)(16C.03.12), 2007)

**16C.03.13. Development Authorization—Review Procedure:**

Upon submittal and acceptance of a completed development authorization application, the Administrative Official shall process and review the application as follows, except that permits or reviews required for critical areas under Chapters 16C.05.20 through 16C.05.72 (Flood Hazard Areas) shall be processed using the permit development standards, approval criteria and other provisions established in Chapters 16C.05.20 through 16C.05.72.

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

- (a) Submittals;
- (b) Completeness review;

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- (c) Notices;

- (d) Hearings;
- (e) Decisions; and
- (f) Appeals.

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

- (a) For rangeland livestock grazing operations, the Administrative Official may waive compliance with development standards in Chapters 16C.06 (Fish and Wildlife Habitat and the Stream Corridor System), 16C.07 (Wetlands), 16C.08 (Geologically Hazardous Areas), and 16C.09 (CARA), except for those uses and activities listed in Section 16C.06.10 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be provided that has been prepared using all applicable U.S. Department of Agriculture—National Resource Conservation Service best management practices designed to protect streams, wetlands, vegetative management zones, erosion hazards, and floodplains from grazing operations. An acceptable Resource Management Plan is deemed to consist of acceptable critical areas protection measures capable of dealing with impacts of grazing activities dispersed across large areas. This provision is not intended to apply to pasture grazing, hobby farms, or confinement feeding operations.
- (3) Decisions on a development authorization shall be consistent with Sections 16C.03.14 (Authorization Decisions—Basis for Action), 16C.03.15 (Conditional Approval of Development Authorization) and with any specific decision criteria provided under the sections for each relevant permit type, as provided in Sections 16C.03.20 through 16C.03.26 (specific permit descriptions).

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.13), 2007)

#### **16C.03.14. Authorization Decisions—Basis for Action.**

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

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

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including compliance with flood hazard mitigation requirements of Chapters 16C.05.20 through 16C.05.72;

- (6) Adequacy of the information provided by the applicant or available to the

~~department;~~

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

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.14), 2007)

#### **16C.03.15. Conditional Approval of Development Authorization.**

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

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

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.15), 2007)

#### **16C.03.16. Fees and Charges.**

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

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.16), 2007)

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### **Article V**

#### **Critical Areas Reports**

#### **16C.03.17. Critical Areas Report Requirements.**

- (1) The Administrative Official may require a critical areas report, paid for by the applicant in accordance with YCC Chapter 16B.04, where determined necessary

~~through the critical area identification form, technical assistance conference, site investigation, or other portion of the project review.~~

- ~~(2) A qualified professional, as defined by this title, shall prepare the report utilizing best available science. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.~~
- ~~(3) The critical area report shall:~~
  - ~~(a) Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this title;~~
  - ~~(b) Describe all relevant aspects of the development proposal; all critical areas adversely affected by the proposal including any geologic or flood hazards; all risks to critical areas, the site, and other public and private properties and facilities resulting from the proposal; and assess impacts on the critical area from activities and uses proposed; and~~
  - ~~(c) Identify proposed mitigation and protective measures as required by this title.~~
- ~~(4) The critical areas report shall include information to address the supplemental report requirements for specific critical areas (16C.03.18).~~
- ~~(5) The Administrative Official shall review the critical areas report for completeness and accuracy, and shall consider the recommendations and conclusions of the critical areas report to assist in making decisions on development authorizations and to resolve issues concerning critical areas jurisdiction, appropriate mitigation, and protective measures.~~
- ~~(6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be demonstrated to the satisfaction of the Administrative Official that the previously prepared report is adequate for current analysis. Future land use applications may require preparation of new, amended, or supplemental critical area assessment reports. Reports prepared for nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if relevant to the current analysis and meeting the above standards. The Administrative Official may also require the preparation of a new critical area assessment report or a supplemental report when new information is found demonstrating that the initial assessment is in error. If the Administrative Official requires more information in the report, he/she shall make the request in writing to the applicant stating what additional information is needed and why.~~

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

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

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

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

- (a) A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and management zones within and abutting the site, including but not limited to effects related to clearing, grading, noise, light/glare, modification of surface or subsurface flow, drilling, damming, draining, creating impervious surface, managing stormwater, releasing hazardous materials, and other alterations. Projects in frequently flooded areas must comply with the requirements of Sections 16C.05.20 through 16C.05.72. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity, the report shall identify the type of hazard and assess the associated risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
- (b) A written description of the critical areas and management zones on or abutting the site, including their size, type, classification or rating, condition, disturbance history, and functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the description shall identify the type and characteristics of the hazard;
- (c) An analysis of potential adverse critical area impacts associated with the proposed activity. For geologically hazardous areas, also assess the risks posed by the development to critical areas, the site, and other public and private properties and facilities that are the result from the proposal, and assess impacts on the critical area from activities and uses proposed;
- (d) An explanation of how critical area impacts or risks will be avoided and/or minimized, how proposed mitigation measures will prevent or minimize hazards, why the proposed activity requires a location on or access across a critical area, the on-site design alternatives, and why alternatives are not feasible;

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

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

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

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

- (a) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the proposed compensation including:
  - (i) A description of the anticipated impacts to the critical areas, mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals and objectives, identification of desired resource functions, dates for beginning and completion of site compensation construction activities, and an analysis of the likelihood of success of the compensation project. The goals and objectives shall be related to the functions and values of the impacted critical area;
  - (b) A review of the best available science supporting the proposed mitigation;
  - (c) A description of the report author's experience to date in restoring or creating the type of critical area proposed;
  - (d) Performance Standards. The mitigation plan shall include measurable specific

criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained;

- (e) ~~Detailed Construction Documents.~~ The mitigation documents shall include written specifications and plans describing the mitigation proposed, such as:
  - (i) The proposed construction sequence, timing, and duration;
  - (ii) Grading and excavation details;
  - (iii) Erosion and sediment control features;
  - (iv) A planting plan specifying plant species, quantities, locations, size, spacing, and density;
  - (v) Measures to protect and maintain plants until established; and
  - (vi) Documents should include scale drawings showing necessary information to convey both existing and proposed topographic data, slope, elevations, plants and project limits;
- (f) ~~Monitoring Program.~~ The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.
- (g) ~~Contingency Plan.~~ The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
- (h) ~~Financial Guarantees.~~ The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with Section 16C.03.27(1) (Financial Guarantees).

**(14) Innovative Mitigation:**

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

together if it is demonstrated that all of the following circumstances exist:

- (i) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
- (ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
- (iii) The group demonstrates that long term management of the habitat area will be provided;
- (iv) There is a clear potential for success of the proposed mitigation at the identified mitigation site;
- (v) There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;
- (vi) The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel by parcel regulations and/or traditional mitigation approaches;
- (vii) The plan is consistent with the general purpose and intent of this chapter;
- (viii) The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and
- (ix) The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.

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

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

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.03.17), 2007)

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

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

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<https://fortress.wa.gov/cec/publications/SummaryPages/1406030.html>),—as amended;

- (b) All delineated wetlands and required management zones within two hundred (200) feet of the project area shall be depicted on the site plan. For areas off site of the

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project site, wetland conditions within 200 feet of the project boundaries may be estimated using the best available information. Best available information should include, but not be limited to, aerial photos, land based photos, soils maps, or topographic maps;

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

A statement specifying all assumptions made and relied upon;

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

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

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

For projects that will affect the wetland or its management zone, provide the following:

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

Mitigation sequencing pursuant to Section 16C.03.10 (Mitigation Requirements) to avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of wetland functions and values.

Mitigation ratios may be necessary and should follow the guidance provided in Section 16C.07.05 (Compensatory Mitigation) of the wetland chapter.

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

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

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

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

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

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

~~Assessments and conclusions regarding slope stability including the potential types of landslide-failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of YCC Title 13 (Building Code);~~

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

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

~~Flood Hazards.~~

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

~~Critical Aquifer Recharge Areas. When a hydrogeological report is required for CARAs, it shall include the following:~~

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

~~The hydrogeologic report shall be prepared by a hydrogeologist licensed in the state of Washington. The report shall contain recommendations on appropriate BMPs (Best Management Practices) or mitigation to assure no significant degradation of groundwater quality.~~

~~Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 1 2011 § 2 (Exh. A (6)), 2011; Ord. 2 2009 § 2 (Exh. A (7)), 2009; Ord. 13 2007 § 4 (Exh. A) (16C.03.18), 2007~~

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#### **Article VI Permit Review Criteria**

##### **16C.03.20. Standard Development Permit.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.03.20), 2007)~~

#### **16C.03.23. Adjustment.**

- (1) ~~Classification Criteria~~ For projects not required to be processed under RCW Chapter 90.58 (Shoreline Management Act), the Administrative Official is authorized to administratively adjust the development standards specified herein. Existing structures, parcel size, property boundaries, and other constraints may preclude conformance with building setbacks, vegetative management zones, and other provisions of this chapter. Given such constraints, administrative adjustments may be authorized where the site plan and project design include measures which ensure the protection and performance of the functional properties identified in Section **16C.06.05 (Functional Properties)**. Adjustments from prohibited use limits are not allowed.
- (2) ~~Process~~ Requests for an Adjustment permit shall be processed as a Type II permit, in accordance with YCC Title 16B (Project Permit Administration). Requests for adjustments of development standards shall be made in writing and shall specify the standard(s) for which an adjustment is sought and the reasons why the adjustment is sought.
- (3) ~~Decision Criteria~~ Decisions on Adjustment permits shall be based on the general decision criteria found in section 16C.03.14 (Authorization Decisions—Basis for Action) together with the criteria below:
  - (a) A particular standard may be reduced or modified as long as the Administrative Official determines that the adjustment and/or reduction:
    - (i) Is consistent with the purpose of this title;
    - (ii) Is consistent with the intent of the standard; and
    - (iii) Will not result in degradation of the critical area.

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- (a) The Administrative Official shall consider the following:
  - (i) The proximity and relationship of the project to any critical area and its impact on the critical area;
  - (ii) The functions and values that the critical area performs;
  - (iii) The overall intensity of the proposed use;
  - (iv) The presence of threatened, endangered, or sensitive species;
  - (v) The site's susceptibility to severe erosion;
  - (vi) The use of a management zone averaging or management zone enhancement plan by the applicant which uses native vegetation or other measures which will enhance the functions and values of the Hydrologically Related Critical Area (HRCA).
- (e) When granting an adjustment to the provisions of this chapter, the Administrative Official may require alternative measures to be taken to protect

~~the function and value of the HRCA. These alternative measures may include, but are not limited to, the following:~~

- ~~(i) Restoration of impaired channels and banks to conditions which support natural stream flows, fish habitat, and other values;~~
- ~~(ii) Restoration, enhancement, and preservation of soil characteristics and the quantity and variety of native vegetation;~~
- ~~(iii) Provisions for erosion control and for the reduction and filtration of stormwater runoff to moderate the effects of the project on the stream channel and the available area of vegetation separating the project from the stream channel;~~
- ~~(iv) Removal or alteration of existing manmade facilities associated with stream channels, or drainage ways which improve stream flow characteristics or improve the movement or exchange of surface waters or floodwaters;~~
- ~~(v) Replacement of lost wetlands or other stream corridor features on an acre-for acre and equivalent value or at a higher acre and/or value basis;~~
- ~~(vi) Conservation easements for key portions of stream corridor property and/or their inclusion within public or private conservation programs which provide for their long term preservation and maintenance.~~
- ~~(vii) Vegetative Management zone Averaging. Vegetative management zones may be modified by averaging management zone widths. Management zone averaging is preferred in the use of~~

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~~mitigation sequencing (16C.03.10 Mitigation Requirements), over a reduction in the management zone standards.~~

- ~~(d) The following criteria must be met to reduce the vegetative management zones found in tables 6-1 and 6-2 in YCC § 16C.06.016.~~
  - ~~(i) There is a hardship related to maintenance of the management zone width that results from parcel boundaries or existing on-site development.~~
  - ~~(ii) The management zone width shall be the maximum possible while meeting the minimum needs of the proposal.~~
  - ~~(iii) The development will not result in a reduction of habitat functions and values.~~
  - ~~(iv) The management zone reduction will not adversely affect salmonid habitat. (Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~4-2013 § 2 (Exh. 2) (part), 2013; Ord. 13-2007 § 1 (Exh. A) (16C.03.23), 2007~~

#### **16C.03.24. Reasonable Use Exception.**

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

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

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

~~(1) Financial Guarantees to Ensure Mitigation, Maintenance, and Monitoring.~~

- ~~(a) When mitigation required pursuant to a development proposal is not completed prior to Yakima County's final permit approval, such as final plat approval or final building inspection, the Administrative Official may require the applicant to post a financial guarantee to ensure that the work will be completed. If the development proposal is subject to compensatory mitigation for wetlands and streams, the applicant must post a financial guarantee to ensure mitigation is fully functional. Where financial guarantees are required by other state or federal agencies for specific mitigation features, additional financial guarantees for those features are not required under this provision.~~
- ~~(b) The financial guarantee shall be in the amount of one hundred twenty five percent (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.~~
- ~~(c) The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the Administrative Official, with terms and conditions acceptable to the Yakima County attorney.~~
- ~~(d) The financial guarantee shall remain in effect until the Administrative Official determines, in writing, that the standards bonded for have been met. Financial guarantees for wetland or stream compensatory mitigation shall be held for a minimum of five years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.~~
- ~~(e) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.~~
- ~~(f) Any failure to satisfy critical area requirements established by law or condition, including but not limited to the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan, shall constitute a default, and the Administrative Official may demand payment of any financial guarantees or require other action authorized by the Yakima County Code or any other law.~~
- ~~(g) Any funds recovered pursuant to this section shall be used to complete the required mitigation. Such funds shall not be deposited in the County General Fund, but rather provided with a separate account. The County will use such funds to arrange for completion of the project or mitigation, and follow up~~

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~~required mitigation. Such funds shall not be deposited in the County General Fund, but rather provided with a separate account. The County will use such funds to arrange for completion of the project or mitigation, and follow up~~

~~corrective actions.~~

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

(2) ~~Declarative Covenants:~~

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

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

~~This declarative covenant is provided by Yakima County to the current and future owners of the property described as [enter property description] to inform them that, at the time of this notice, [enter Critical Areas present] existed within or adjacent to the property which are protected and regulated by the Yakima County Critical Areas Ordinance (YCC Title 16C). Development has taken place on the property under permit or review number [enter permit file number], which includes requirements that run with the land. Current and future owners should obtain copies of the permit and also inform themselves about the critical areas that exist on the property.~~

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

(b) ~~The declarative covenant shall not be required for a development proposal by a public agency or public or private utility:~~

- ~~(i) Within a recorded easement or right of way;~~
- ~~(ii) Where the agency or utility has been adjudicated the right to an easement or right of way; or~~
- ~~(iii) On the site of a permanent public facility.~~

(c) ~~The applicant shall submit proof that the declarative covenant has been filed for public record before the Administrative Official approves any development proposal for the property or, in the case of subdivisions, short subdivisions,~~

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~~planned unit developments, and binding site plans, at or before recording.~~

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

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

(b) Critical areas shall be actively protected through the following:

- (i) Roads and utilities for the subdivision shall avoid critical areas and their management zones, as much as possible;
- (ii) When Geologically Hazardous Areas (excluding Erosion, Over Steepened Slopes of Intermediate Risk, Stream Undereutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Management zones fall within the boundary of a subdivision:
  - (A) Said critical areas shall be protected by placing them entirely within a separate critical area tract, or by including them entirely within one of the developable parcels. Other options such as conservation easements and building envelopes may be deemed by the Administrative Official as meeting this provision when special circumstances obstruct the viability of this provision;
  - (B) For those new lots that do contain said critical areas, useable building envelopes (5,000 square feet or more for residential uses) shall be provided on the plat that lie outside said critical areas;
- (iii) New lots partially within the floodplain shall provide a usable building envelope (5,000 square feet or more for residential uses) outside the floodplain;
- (iv) New lots entirely within the floodplain shall be at least one acre in area;
- (v) For new lots containing streams, wetlands, and/or vegetative management zones, outdoor use envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the plat that lie outside said critical areas;
- (vi) Degraded vegetative management zones shall be restored, or provided with protection measures that will allow them to recover;
- (vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and relevant information about them disclosed on the final plat.

(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A)(16C.03.27), 2007)

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## CHAPTER 16C.0422.02 ENFORCEMENT AND PENALTIES

### 16C.0422.02.01. Enforcement Responsibilities Generally.

Enforcement responsibilities generally will follow the parameters set forth in 16C.04.01. It shall be the duty of the Administrative Official or his designee to enforce the provisions of the Critical Areas Ordinance pertaining to all development within the jurisdiction of this title, except as expressly noted in Section 16C.04.02 below pertaining

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.04.01), 2007)~~

**16C.0422.02.02. Enforcement Responsibilities – Chapters 16C.0522.03.20 through 16C.0522.03.72, Flood Hazard Permits.**

~~It shall be the duty of the chief building official Chief Building Official and the Floodplain Administrator or his designee to enforce the provisions of Chapters 16C.0522.03.20 through 16C.0522.03.72. Whenever any development is found to be in violation of said chapters or a permit issued pursuant to said chapters, the Chief Building Official Chief Building Official may order any work on such development stopped by serving written notice on any persons engaged in the doing or causing such development or substantial development to be done. Any such persons shall forthwith stop such work until authorized by the chief building official Chief Building Official to proceed with the work.~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.04.02), 2007)~~

**16C.0422.02.03. Penalties.**

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

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

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

(4)(5) For violations in Special Flood Hazard Areas, the County shall coordinate with FEMA regarding Section 1316 procedures for properties with repetitive violations. Violation notices shall include information about potential flood insurance implications and federal enforcement actions.

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.04.03), 2007)~~

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**CHAPTER ~~16C.05~~22.03.20**  
**FLOOD HAZARD AREAS – GENERAL PROVISIONS**

**§ 16C.0522.03.20.010. Flood Hazard Areas Established.**

The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA), in a scientific and engineering report entitled "The Flood Insurance Study for Yakima County, Washington and Incorporated Areas" dated October 21, 2021, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be part of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 and are established as flood hazard areas. The Flood Insurance Study and FIRMs are on file at the Yakima County Courthouse Building, 128 N. 2nd St., Yakima, Washington, 98901. State defined frequently flooded areas are included within the flood hazard areas. The best available information for flood hazard area identification as outlined in ~~16C.05~~22.03.44.060 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under ~~16C.05~~22.03.44.060. These flood hazard areas are established in accordance with 44 CFR 60.3 to meet minimum National Flood Insurance Program standards. The County shall participate in Community Assistance Visits as required by FEMA and shall utilize best available data including preliminary maps, flood of record information, and approved technical studies until new regulatory maps are adopted. Appeals of map interpretations shall follow procedures established in 44 CFR 60.6. Flood hazard identification shall incorporate findings and recommendations from the Upper Yakima River Comprehensive Flood Hazard Management Plan (2007) and 2018 Cowiche Addendum, including but not limited to channel migration zone mapping, infrastructure vulnerability analysis, and regional coordination protocols.

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 127-2012 § 1(2), 2012; Ord. 13-2007 § 1 (Exh. A) (16C.05.20.010), 2007~~)

**Commented [NS11]:** Stating we are compliant with national standards.

**§ 16C.0522.03.20.030. Principles.**

- (1) Recognizing the right and need of the river channel to periodically carry more than the normal flow of water and desiring to minimize loss of life and property, Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 restrict uses and regulate structures to those that are consistent with the degree of flood hazard.
- (2) In advancing the above principles, the intent of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 and their application is:
  - (a) To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
  - (b) To meet the minimum requirement of the National Flood Insurance Program;
  - (c) To implement state and federal flood protection programs.

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.20.030), 2007~~)

**§ 16C.0522.03.20.050. Applicability.**

The guidelines and regulations set forth in YCC Title 13 and related International Codes

shall apply to all floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas ~~special flood hazard areas~~ within the jurisdiction of Yakima County and shall be utilized when considering the issuance of permits through the administrative or quasi-judicial processes within Yakima County.

- (1) The provisions of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 shall apply to any development proposed in floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas ~~a special flood hazard area~~.
- (2) Flood hazard permits shall be approved by Yakima County. County approvals shall only be granted when in accordance with Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72

~~§ 16C.05.20.050~~ ~~§ 16C.05.20.070~~

and other applicable local, state and federal regulations.

- (3) Topographic, engineering and construction information necessary to evaluate the proposed project shall be submitted to the department for approval.
- (4) The granting of a permit for any development or use shall not constitute a representation, guarantee or warranty of any kind or nature by Yakima County, or any official or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result thereto.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.20.050), 2007)~~

**§ 16C.0522.03.20.060. Exemptions.**

The following uses and activities are exempt from the provisions of Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~:

- (1) The alteration or substantial improvement of any structure listed on the National Register of Historic Places or a state inventory of historic places;
- (2) The installation and maintenance of aboveground utility transmission lines and poles;
- (3) ~~Private driveways, fences and other accessory activities and/or uses necessary for~~ activities and/or uses necessary for agricultural uses which the building official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.20.060), 2007)~~

**Commented [NS12]:** took out private driveways and fences because they are not exempt.

**§ 16C.0522.03.20.070. Interpretations.**

- (1) In the interpretation and application of Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~, the provisions shall be considered as minimum requirements, shall be liberally construed in favor of Yakima County, and deemed neither to limit or repeal any other powers granted under state statute. Its provisions shall be applied in addition to and as a supplement to provisions of the Yakima County Codes (YCC), Title 13, Building and Construction, YCC Title 19 – Unified Land Development Code and the Shoreline Master Program (YCC Title 16D). Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~ are not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these chapters and other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent requirement shall prevail.
- (2) In an interpretation as to an exact location of the boundaries of the special flood hazard areas (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the location of the boundary shall be given a reasonable

**§ 16C.05.20.070 § 16C.05.20.095**

opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59, etc.). (Ref. IBC 104.1.)

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.05.20.070), 2007)~~

**§ 16C.0522.03.20.080. Penalties for Noncompliance.**

No structure or land shall hereafter be used, constructed, located, extended, converted or altered without full compliance with the terms of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 and other applicable regulations. Violations of the provisions of the ordinance codified in this title by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates the ordinance codified in this title or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.20.080), 2007)~~

**§ 16C.0522.03.20.090. Warning and Disclaimer of Liability.**

The degree of flood protection required by Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 do not imply that land outside the area of special flood hazards or uses permitted within such area will not be subject to flooding or flood damage.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.20.090), 2007)~~

**§ 16C.0522.03.20.095. Severability.**

The ordinance codified in this title and the various parts thereof are hereby declared to be severable. Should any Section of the ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

CHAPTER ~~16C.05~~22.03.28  
FLOOD HAZARD PROTECTION STANDARDS

**§ 16C.0522.03.28.010. General Standards.**

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

- (1) Maps. Yakima County shall use the most recent regulatory FEMA maps and FIS documents for building standards. Yakima County shall also use best available data (i.e. 10 and 25 year floodplains, drafted maps) as a higher standard to better inform applicants of the safest placement of development.
  - (a) If there is confusion between where the BFE +1 foot should be measured on a building (whether that is through ASCE 24-24, FEMA, NFIP etc), the strictest standard shall be used.
  - (b) If an applicant disagrees with the regulatory data prescribed by this Title, they may submit a detailed technical study needed to replace existing data with better data in accordance with FEMA mapping guidelines. Technical studies shall be prepared by a professional engineer licensed in Washington State with demonstrated expertise in hydrology and hydraulic engineering. Studies shall follow methodologies established in the Regional Guidance for Hydrologic and Hydraulic Studies (FEMA Region X, 2010) and include climate change and future conditions analysis as required by WAC 173-158-030. If the data in question are shown on the published FIRM, the submittal must also include a copy of the applicant's application to FEMA for a Conditional Letter of Map Revision.
    - (i) If there is an error on the FIRM, Yakima County shall assist the applicant in filing a Letter of Map Amendment to FEMA to correct the mistake.
  - (c) Where base flood elevation data are not available in accordance with Section 22.03.02.010, applications for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include such data with their permit applications.
  - (d) Where floodway delineation or channel migration zone data are not available in accordance with Section 22.03.02.010, the applicant shall identify the areas in accordance with Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Title for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act, FEMA Region X, 2012.
    - (i) All new hydrologic and hydraulic flood studies conducted pursuant to this Section shall consider future conditions, and the cumulative effects from anticipated future land use changes, in accordance with Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Title for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act, FEMA Region X, 2012.
    - (ii) The Floodplain Administrator shall use the most restrictive data available for the channel migration zone, floodways, future conditions, and riparian

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habitat areas. This includes preliminary Federal, State, or County data.

**(4)(2) Anchoring and Construction Techniques.**

- (a) All new construction and substantial improvements, including those related to manufactured homes, shall be:
  - (i) Anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy; and
  - (ii) Constructed using materials and utility equipment resistant to flood damage; and
  - (iii) Constructed using methods and practices that minimize flood damage; and
  - (iv) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques). Anchoring shall meet the specifications set forth below for structures located within one hundred feet of a floodway or the ordinary high water mark if no floodway has been established.
- (c) All new construction and any improvements or additions to existing floodproofed structures that would extend beyond the existing floodproofing located within one hundred feet of the floodway or one hundred feet of the ordinary high water mark if no floodway has been established shall be elevated to a height one foot or greater than the base flood, using zero-rise methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that non-zero-rise construction methods will not impede the movement of floodwater or displace a significant volume of water. The size and spacing of any support devices used to achieve elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified above in subsection (1)(a) of this section, provided therefrom, if the original building required a floodproofing certificate, then the floodproofing certificate must be updated. Also provided therefrom, if any part of the project is in a floodway, the floodway standards in this code still apply.

- (i) One foot or greater than the base flood elevation by strictest building standards (ASCE 24-24, ICC, or NFIP, whichever regulation is more stringent).

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**Commented [NS13]:** Stating whichever majorly accepted publication requires the strictest regulation of where BFE +1 should be measured- that's who we are going with.

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

~~(2)~~(3) Utilities.

(a) All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. Water wells shall be located on high ground that is not in the floodway.

~~(3)~~(4) Subdivision Proposals and Development. Subdivision proposals, as well as new development shall:

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

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

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

(d) Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 acres (whichever is lesser) base flood elevation data shall be included as part of the application.

~~(4)~~(5) Watercourse Alterations. Whenever a watercourse is to be altered or relocated:

(a) Assure that the flood-carrying capacity within altered or relocated portions of any watercourse shall be maintained.

(b) Prior to the approval of any alteration or relocation of a watercourse in riverine situations, the department shall notify adjacent communities the Department of Ecology and FEMA of the proposed development and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.28.010), 2007)~~

**§ 16C.0522.03.28.020. Specific Standards.**

In all floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas special flood hazard areas—where base elevation data has been provided as set forth in Section 16C.0522.03.20.010 or Section 16C.0522.03.44.060, the following regulations shall apply, in addition to the general regulations of Section 16C.0522.03.28.010:

(1) Residential Construction. (Ref. IRC 323.2.)

(a) In AE and A1-30 zones or other A zoned areas where the BFE has been

determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the BFE.

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

- (i) A minimum of two engineered openings having a total net area of not less than one square inch for every square foot (up to 250 square feet per vent) of enclosed area subject to flooding shall be provided.
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (iv) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

(c) All new construction and substantial improvements within Special Flood Hazard Areas shall comply with ASCE-24-24 elevation and construction standards. Within 100 feet of regulatory floodways or ordinary high water marks, structures shall be elevated using methods specified in ASCE 24-24 section 1.5 for the applicable flood zone, with foundation systems designed to resist hydrostatic and hydrodynamic loads per ASCE-24-24 Chapter 1.6.  
Residential construction within one hundred feet of a floodway or the ordinary high water mark, if no floodway has been established, shall also meet the requirements of Section ~~16C.05~~22.03.28.010(1)(c).

**Commented [NS14]:** Per richard- makes being compliant with building codes more attainable for applicants.

(d) New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in Appendix C.<sup>4</sup>

(e) New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

**Commented [NS15]:** ASCE 24-24 MOS

(e)(f) Per WAC 173-158-076 and SB 5649-2023-24: certain existing dwellings in FEMA-mapped floodways can be eligible for a substantial improvement or alterations waiver through Washington State Department of Ecology if improvements or alterations to the dwelling will protect the dwelling from future flood events.

**Commented [NS16]:** Newly passed regulation.

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

(a) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

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4. Editor's Note: Appendix C is included as an attachment to the title.

- (i) In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained: New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation, or elevated as required by ~~ASCE 24-24 Section 2.3~~, whichever is greater. Mechanical equipment; and utilities shall be waterproofed or elevated at least one foot above the BFE, or as required by ~~ASCE 24-24 Section 7~~, whichever is greater.
- (ii) If located in an AO zone, the structure shall meet requirements in Appendix C.<sup>5</sup>
- (iii) If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
- (iv) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if used solely for parking, access or storage shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified ~~that they meet the requirements of ASCE 24-4 Section 2.8 by a registered professional engineer or architect~~ or must meet or exceed the following minimum criteria:
  - (A) Have a minimum of two engineered openings with a total net area of not less than one square inch for every square foot ~~(up to 250 square feet per vent)~~ of enclosed area subject to flooding.
  - (B) The bottom of all openings shall be no higher than one foot above grade.
  - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
  - (D) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

- (b) If the requirements of subsection (a) are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall ~~meet~~ be dry floodproofed so that below an elevation 1 foot ~~above BFE the structure is in accordance with section 6.2.2 of ASCE24-24 so that~~ ~~all of the following requirements:~~
  - (i) The structure, together with attendant utilities, equipment, and sanitary facilities, is flood resistant with all elements substantially impermeable to

**Commented [NS17]:** More specific references.

**Commented [NS18]:** Washington only likes engineers not architects.

the passage of water. Walls, floors, and shields shall be designed and constructed to resist hydrostatic, hydrodynamic, and other flood-related loads, including the effects of buoyancy resulting from flooding to the level of the flood protection elevation; Be floodproofed so that below an elevation one foot above base flood level the structure is watertight, with walls substantially impermeable to

- (ii) Flood shields are tested to and certified by a professional engineer to meet the applicable requirements of the ANSI/FM 2510 standards and that the other components of the floodproofing system be ANSI/FM 2510 tested and certified where practical and available. Such certification shall be provided to the building official;
- (iii) The structure will have at least one door for an exit door, or a door, window, or other non-flood opening for an emergency escape and rescue opening, above the flood protection elevation, and capable of providing human ingress and egress during the design flood;
- (iv) Flood design class 3 and 4 buildings have electrical connections above the flood protection elevation and at least a 72-hour backup power supply;
- (v) Dry floodproofed areas of the structure be identified and marked;
- (vi) Inspection, Maintenance, and Operations Plans are developed, implemented, and posted permanently in at least two conspicuous locations within the structure;
- (vii) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection(2)(a)(iv) above, and;
- (viii) Meet the special standards for structures set forth in section 22.03.28.010(1)(c) above if within one hundred feet of a floodway or within one hundred feet of the ordinary high water mark if floodway has been established.

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5. Editor's Note: Appendix C is included as an attachment to the title.

§ 16C.05.28.020 § 16C.05.28.020

~~the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;~~

- ~~(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~
- ~~(iii) Be certified by a registered professional engineer or architect that the design and method of construction are in accordance with accepted standards of practice for meeting provisions of this subsection, based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official;~~
- ~~(iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (2)(a)(iv) above;~~
- ~~(v) Meet the special standards for structures set forth in Section 16C.05.28.010(1)(e) above if within one hundred feet of a floodway or within one hundred feet of the ordinary high water mark and no floodway has been established;~~

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

(3) Agricultural Construction. New construction and substantial improvement of any agricultural structure shall either have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation; or meet the floodproofing requirements of subsection (2) of this section.

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

(4) Manufactured Homes.

(a) All manufactured homes to be placed or substantially improved on sites shall have the lowest floor elevated one foot or more above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with Section ~~16C.05~~22.03.28.010(1)(b).

(5) Recreational Vehicles. Recreational vehicles placed on sites are required to either:

- (a) Be on the site for fewer than 180 days, or
- (b) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(c) Meet the requirements of subsection (4), above.

(6) Enclosed Area Below the Lowest Floor. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

(7) AE and A1-30 Zones with Base Flood Elevations but No Floodways. In areas with BFEs (when a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(8) Livestock Sanctuary Areas. Elevated areas for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter. To be "elevated sufficiently to protect livestock" typically means to be elevated at least one foot above the BFE.

(9) Fencing. Fencing located in floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas must comply with the following requirements:

- (a) Fencing must meet all base requirements set forth in YCC title 13 and 19.
- (b) Fencing must have an approved flood hazard permit prior to installation or construction.
- (c) All newly constructed or installed fencing and its associated components are strictly prohibited in floodways or otherwise active channels. This includes but is not limited to: posts, supports, netting, wires, panels, gates, lattices, rails, pickets, trim, footings, and/or fabric.
  - (i) In channel migration zones: an engineering study that meets the requirements of in RCW 86.16/ WAC173-158 must be submitted as part of the flood hazard permit to be reviewed by the Floodplain Administrator.
- (d) In floodplains where the BFE is established: the fencing must be elevated to 1 foot above the BFE (per RCW 86.16/WAC 173-158). If this is infeasible, the fencing must be engineered to allow floodwater and associated debris to flow freely under and through the fencing. Engineered fencing plans must be approved by the Floodplain Administrator prior to installation. Guidance tables and figures are provided below.
- (e) In floodplains where no BFE has been~~has bee~~ established: horizontal fencing components must be elevated to 1 foot above the ordinary high water mark. If there is no ordinary high water mark discernible, an engineering study that

**Commented [NS19]:** Needed in yak county because people were putting fences willy nilly. This could be found as a community violation from FEMA.

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meets the requirements in RCW 86.16/ WAC173-158 must be submitted as part of the flood hazard permit to be reviewed by the Floodplain Administrator.

(f) If it is not feasible to elevate horizontal fencing components to 1 foot above BFE:

- (i) Fencing must be aligned perpendicular to the flow and follow setback guidance set by the Floodplain Administrator, OR
- (ii) Fencing must have flood openings, subject to the following standards
  - (A) The bottom of all openings shall be at natural grade.
  - (B) Fencing material must be able to “break away” in the event of a flood.
  - (C) The application is accompanied by an engineering study that meets the requirements set forth in Regional Guidance for Hydrologic and Hydraulic Studies in support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act (FEMA Region 10, 2010) that shows the proposed fence will have no impact on the carrying capacity of the floodway/floodplain and be stamped by a professional engineer.

(g) See the table below for permitting conditions related to flood hazard areas and fence types.

(8) Table 2: Approved Fencing

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C-05-28.020), 2007)~~

TYPE OF FENCE	FLOOD HAZARD AREA IN WHICH FENCE IS CONSTRUCTED						
	FLOODWAY FRINGE	FLOODWAY	PRIMARY CHANNEL	CHANNEL MIGRATION ZONE	SHALLOW SHEET FLOW	PONDING AREA	FLOODPLAIN
	Conditions for Permitting						
A	Allowed	Not Allowed	Not Allowed	Subject to Approval	Allowed	Allowed	Allowed
B	Allowed	Not Allowed	Not Allowed	Subject to Approval	Allowed	Allowed	Allowed
C	Subject to Approval	Not Allowed	Not Allowed	Subject to Approval	Subject to Approval	Allowed	Allowed
D	Subject to Approval	Not Allowed	Not Allowed	Not Allowed	Subject to Approval	Allowed	Subject to Approval
E	Subject to Approval	Not Allowed	Not Allowed	Subject to Approval	Subject to Approval	Allowed	Subject to Approval
F	Subject to Approval	Not Allowed	Not Allowed	Not Allowed	Subject to Approval	Subject to Approval	Subject to Approval

A – “open” barbed or barbless wire: there is no more than 1 horizontal strand per foot of height and no more than 1 vertical wire, stay, or post per 6 feet of fence length.

**B** = "open" wire or rail fencing (e.g. corrals): horizontal pipes or rails occupy 10% or less of the flow area obstructed by the fence, and posts are spaced no closer than 8 feet.

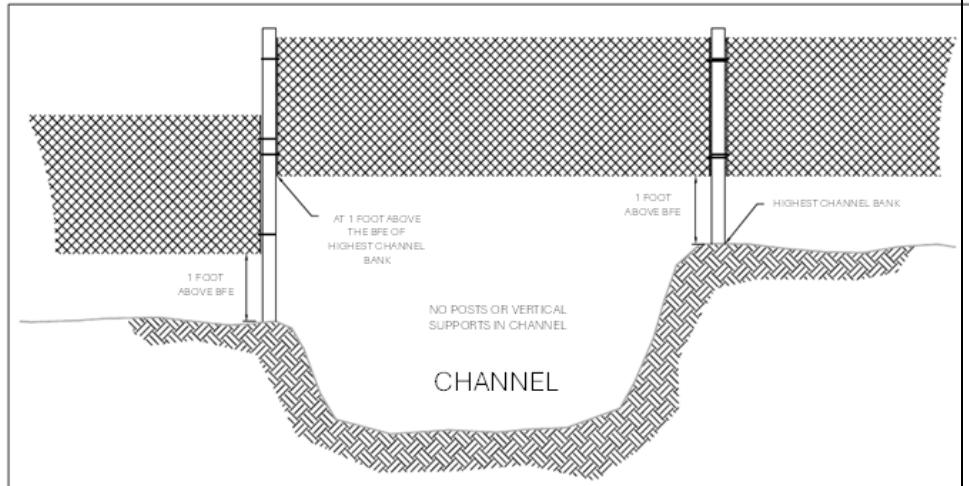
## C – Collapsible (movable) fencing

D. Other wire, pipe, wrought iron, or rail-type fencing (e.g., wood-rail fence) which does not meet the "open" requirements.

D – Other wire, pipe, wrought iron, or rail type fencing (e.g., wire mesh, chain link, etc.)

## E - Woven wire fencing (chain link, field, chicken wire, etc.)

Figure 2: Fence Over Channel Example



(10) Crossings

Should public works staff or the Floodplain Administrator determine that a crossing is necessary (whether over a channel, drainage way, floodplain, floodway, CMZ, frequently flooded area, etc.), the following conditions shall be required:

- (a) All development in designated floodway, channel migration zone, or active channels shall require:
  - i. A hydrologic and hydraulic (H&H) analysis.
  - ii. Approved No-Rise Certification or CLOMR.
  - iii. Approved flood hazard permit.
  - iv. Relevant permits from other regulatory agencies(ie HPA(WDFW)).
- (b) Designated floodplains and drainage ways shall have H&H analysis that demonstrates there will be no increase in BFE exceeding 0.00 feet at any point, verified through HEC-RAS modeling or equivalent methodology approved by a professional engineer.
- (c) Designated floodplains and drainage ways shall have engineered crossings to minimize impact to the designated floodplain.
- (d) All crossings shall be at the narrowest sections of the floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas on the FIRM.
- (e) All crossings shall be able to adequately convey the 100-year event.
- (f) The owner shall be responsible for maintaining any private crossing located in floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas, including debris removal,

**Commented [NS20]:** Needed in yak county because people are making their own bridges for their properties which is not safe or legal.

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erosion control, sediment management, and inspection following flood events.

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## Crossing Design Standards

### (a) Primary Crossing

(i) Any roads constructed in floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas shall be built at or near the natural grade and not impede or redirect flood flows. Elevated roadbeds shall only be used when demonstrated necessary and shall not result in adverse floodplain impacts.

(ii) Prior to approval of a crossing within floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas, the applicant shall submit an alternatives analysis demonstrating that no practicable options exist to locate access outside the floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas.

- Alternatives include placing roads outside floodplain, access easements on neighboring properties, shared driveways, subdividing and using a common road for properties, etc.

(iii) Crossings shall:

- Crossings shall be engineered to handle the 1%-annual-chance flood event with minimal impact on flow.
- the crossing shall span the width of the floodway, ensuring all entry points are outside the floodway.
- The span between the surface water and the bottom of the bridge is determined on an individual bases.

(iv) If floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas has no designated floodway: crossings shall be designed such that elevations do not exceed 1-foot rise at impacted cross-sections.

(v) Crossings will be required to support the load of a fire apparatus weighing up to 75,000 pounds (IFC, Appendix D, Section D102.1). Vehicle load limits shall be posted at both entrances to bridges when required by the Fire code official.

(vi) Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, approved signs, or both shall be installed and maintained when required by the fire code official.

(vii) If servicing a private drive, the crossing width will be required to meet the requirements for a dead-end fire apparatus access road based on access road length in feet (IFC, Appendix D, Table D103.4).

(viii) Crossings shall be constructed and maintained in accordance with

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AASHTO HB-17 (IFC, Section 503.2.6).

- (ix) All-weather surface is such a surface that does not present a barrier to access throughout the range of local weather scenarios for typical fire apparatus weighing up to 75,000 pounds. This includes asphalt and concrete.
- (x) If a walking surface are provided then a guard rail is required.
- (xi) Crossings in floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas shall meet all applicable structural and hydraulic criteria regardless of intended use (e.g., residential, agricultural, or utility). Occasional use does not exempt the structure from design standards, including H&H analysis and load-bearing capacity.

(b) Secondary Crossing

- (i) Secondary crossings cannot be in type 1-3 streams, floodways, or CMZs.
- (ii) The crossing cannot be accessed by the public. The crossing must be used in a private manor that is not essential to the function or purpose of the property. The crossing cannot serve any residential, commercial, or business purposes.
- (iii) If the crossing is high use (more than 30 individual vehicles crossing per year) it will be considered a primary crossing.
- (iv) Secondary crossings shall be at the narrowest possible section on the floodplains, floodways, channel migration zones, streams, channels, special flood hazard areas, natural drainage ways, and frequently flooded areas.

(c) See table below for permitting conditions related to flood hazard areas and crossing types.

Table 3: Crossing Decision

CROSSING TYPE	F									
	Floodway	Channel Migration Zone	Stream-type 1	Stream-type 2	Stream-type 3	Stream-type 4	Stream-type 5	Floodplain	Drainage Way	Lakes and Ponds
	STRUCTURES ALLOWED									
BRIDGE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
CULVERT	No	No	No	No	STA	Yes	Yes	STA	STA	STA
FORD	No	No	No	No	No	Yes	Yes	STA	STA	STA

STA- Subject to approval by Floodplain Administrator.

Orange flood hazards- eligible for secondary crossing designation, upon review.

Bridge – Must be designed/certified by a professional engineer in the state of WA.

Culvert – Must be able to convey the 100-year storm event.

Ford – Only permissible for use when there is no surface water in the designated ford. It must be dry earth to cross by vehicle.

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(10) Natural Drainage Ways.

General Protection Requirements.

- (a) Development in and around natural drainage ways shall adhere to the standards found in YCC 12.10.250.
- (b) No cuts or fill will be allowed in a natural drainage way except for driveway or road crossings with approved drainage plan showing engineered culverts or bridges, designed to allow stormwater runoff to pass or to be discharged in accordance with the standards as identified in YCC 12.10.250 (7).
- (c) Natural drainage ways shall be reserved for the conveyance and/or disposal of stormwater flows. The width of the natural channels and swales shall be determined based on an analysis of the stormwater flows directed to these drainage systems and access and maintenance requirements as stated in the standards as identified in YCC 12.10. The analysis is to be performed by the developer's engineer for review and approval by the county.
- (d) Natural drainage ways shall remain and/or be restored to as natural a condition as possible but may include passive recreation alternatives such as bicycle or hiking trails, provided said uses do not obstruct the function of the drainage system.
- (e) Should public services determine that the property contains natural drainage ways that are at risk of impediment from proposed development, these cases will require an EAC/site visit with public services and written approval from Floodplain Administrator before any construction begins.
  - (i) If the Floodplain Administrator determines that a crossing is necessary, all crossings must comply with section 22.03.020 (10).
  - (ii) Upon review and approval by the Floodplain Administrator, natural drainage ways in residential and non-residential development containing lots one acre or smaller may be realigned within the development provided that the drainage way will enter and exit the site at the pre-developed location and that discharge will occur in the same manner as prior to development.
- (f) All new developments containing parcels one acre or smaller in size shall be designed so that natural drainage ways remain as open space in a separate parcel. The developer shall designate ownership, operation and maintenance of the drainage way as specified in the current standards as identified in YCC 12.10.
- (g) In areas where natural drainage ways coincide with flood zones identified on the Yakima County flood zone maps or the county's most recent Federal Emergency Management Agency (FEMA) maps, all land division and building permit activity shall meet the requirements of this chapter. In the event of a conflict between the information shown on the published maps and information gathered from field investigations, the latter shall prevail.
- (h) No building permits shall be issued for structures, including manufactured homes, located in a natural drainage way other than utility structures and ancillary buildings or structures associated with the passive recreational alternatives as set forth in subsection (4) of this section that can be constructed without obstructing the function of the drainage way.

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(11) Fill in Floodplain

Fill in the 100 year floodplain shall:

(a) Meet the requirements of NFIP Technical Bulletin 10.

(b) Comply with all applicable provisions of IBC appendix J.

(i) Have all studies, engineering, and documentation required within NFIP Technical bulletin 10 and other referenced codes and standards are submitted, including the material design prepared by an engineer licensed in the State of Washington.

(c) Have Grading Permit and Flood Hazard Permit obtained prior to installation.

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CHAPTER ~~16C.05~~22.03.32  
FLOODWAY FRINGE USES

**§ 16C.0522.03.32.010. Permitted Uses.**

The following uses are permitted in the floodway fringe areas:

- (1) Any use permitted in the zoning district in accordance with YCC Title 19 of the Yakima County Code, unless prohibited by Section ~~16C.05~~22.03.32.020.
- (2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with YCC Title 19 and where not otherwise inconsistent with Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:
  - (a) Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed.
  - (b) Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of Section ~~16C.05~~22.03.36.010(2)(c).
  - (c) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all other agricultural and nonagricultural floodway fringe or special flood hazard areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage.
  - (d) Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.
  - (e) Aboveground utility transmission line appurtenant structures, including valves, pumping stations or other control facilities, shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available, or in the event a floodway fringe or special flood hazard location is environmentally preferable. In such instances, aboveground structures shall be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately floodproofed.

~~§ 16C.05.32.010~~ § 16C.05.32.020

~~be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately floodproofed.~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.05.32.010), 2007)~~

**§ 16C.0522.03.32.020. Prohibited Uses.**

The following uses shall be prohibited in floodway fringe areas:

~~(1) New manufactured home parks and the expansion of manufactured home parks. (Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A) (16C.05.32.020), 2007~~

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CHAPTER ~~16C.05~~22.03.36  
FLOODWAY USES

**§ 16C.0522.03.36.010. Permitted Uses.**

Permitted uses include any use permitted in the zoning district in accordance with YCC Title 19 of this code, provided that said use is in compliance with the flood hazard protection standards of Chapter ~~16C.05~~22.03.28 and other applicable provisions of this title, and will have a negligible effect upon the floodway in accordance with the floodway encroachment provisions of Section ~~16C.05~~22.03.36.020(2):

- (1) Surface mining, provided that the applicant can provide clear evidence that such uses will not divert flood flows causing channel-shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of Title 19 and the Yakima County Shoreline Management Master Program Regulations (Shoreline Master Program (Title 16D), where applicable);
- (2) Utility transmission lines, unless otherwise prohibited by this chapter; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:
  - (a) All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways;
  - (b) Electric transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed;
  - (c) Buried utility transmission lines transporting hazardous and nonhazardous materials, including but not limited to crude and refined petroleum products and natural gas, water and sewage, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by Yakima County, shall assume the conditions of a one-hundred-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the Yakima County Shoreline Management Master Program Regulations;

~~§ 16C.05.36.010~~ § 16C.05.36.010

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

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

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

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

(3) Construction or reconstruction of residential structures only as authorized in Section ~~16C.05~~22.03.36.020(3);

(4) Improvements to existing residential structures that are not substantial improvements per Section ~~16C.02~~22.01~~480~~395; provided, the improvement complies with the requirement set forth in Section ~~16C.05~~22.03.36.020(2);

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

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Program (YCC Title 16D). In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection (2) above;

§ 16C.05.36.010 § 16C.05.36.020

~~view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this title and the Shoreline Management Master Program (YCC Title 16D). In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection (2) above;~~

- (6) Dikes, provided that the applicant can provide evidence that:
  - (a) Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences,
  - (b) Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired,
  - (c) The proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented;
- (7) Roads and bridges, subject to the regulations of subsection (2) above.  
~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.05.36.010), 2007~~

**§ 16C.0522.03.36.020. Prohibited Uses.**

The following uses/developments are prohibited in the floodway:

- (1) Any structure, including manufactured homes, designed for, or to be used for human habitation of a permanent nature;
- (2) All encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;
- (3) Construction or reconstruction of residential structures within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the assessed value of the structure either (i) before the repair, reconstruction or improvement is started, or (ii) if the structure has been damaged and is being restored, before the damage occurred. Work done on structures to correct existing violations of existing health, sanitary or safety codes, or to structures identified as historic places shall not be included in the fifty percent. If subsection (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Chapters 22.03.20 through 22.03.72, including those set forth in subsection (5) below;

~~§ 16C.05.36.020~~ § 16C.05.36.020

~~with all applicable flood hazard reduction provisions of Chapters 16C.05.20 through 16C.05.72, including those set forth in subsection (5) below;~~

- (4) The construction or storage of any object subject to flotation or movement during flood level periods;
- (5) The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway, are specifically prohibited:
  - (a) The filling of wetlands, except as authorized under Chapter ~~16C.~~16C.06 (Fish and Wildlife Habitat and the Stream Corridor System) and Chapter ~~16C.~~16C.07 (Wetlands) ~~of this title~~;
  - (b) Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or materials;
  - (c) Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the occurrence of the base flood discharge;
- (6) The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited.  
~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.36.020), 2007)~~

~~§ 16C.05.40.010~~ § 16C.05.40.030

CHAPTER ~~16C.05~~22.03.40  
NONCONFORMING USES AND STRUCTURES

**§ 16C.0522.03.40.010. Generally.**

- (1) Within the special flood hazard areas established by Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 or amendments thereto, there may exist structures and uses of land and structures which were lawful before these chapters were adopted or amended, but which would be prohibited, regulated or restricted under the terms of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 or future amendment.
- (2) It is the intent of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 to permit these lawful pre-existing nonconformities to continue until they are removed by economic forces or otherwise, but not to encourage their survival except in cases where continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of said chapters.
- (3) To avoid undue hardship, nothing in Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to June 5, 1985, the date Yakima County enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance Program, and upon which actual building construction has been diligently carried on; namely, actual construction materials placed in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved. October 1, 1995, the effective date of the amended ordinance codified in Title 16A, shall be used as it applies to all other critical areas requirements established under Title 16A by Ordinance 8-1995.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 10-2019 (Exh. 1) (part), 2019; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.40.010), 2007)~~

**§ 16C.0522.03.40.020. Nonconforming Uses of Land.**

If, on October 1, 1995, the effective date of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72, a lawful use of land not conducted within a building exists that is made no longer permissible under the terms of said chapters as adopted or amended, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of the lot of record than that which it occupied at the effective date of adoption or amendment of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72.
- (2) At such time as a structure is erected thereon, the structure and the use of the land shall conform to the regulations specified by Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 and YCC Title 19.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.05.40.020), 2007)~~

~~§ 16C.05.40.030~~ § 16C.05.40.060

**§ 16C.0522.03.40.030. Nonconforming Structures.**

- (1) If, on October 1, 1995, the effective date of Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~, a structure is nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirement of said chapters and Chapter 19.33 of YCC Title 19, provided that the degree of nonconformity shall not be increased and the applicable elevation and/or floodproofing requirements of this title shall be observed, any structural alterations or enlargements of an existing structure under such conditions shall not increase the degree of nonconformity.
- (2) A structure, nonconforming only because the structure is not in conformance with the applicable elevation and/or floodproofing requirements of Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~, destroyed to an extent such that restoration costs would exceed fifty percent of the assessed value of the structure immediately prior to such occurrence, shall be considered completely destroyed and shall be required to meet all applicable requirements of this title and YCC Title 19 upon restoration.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.05.40.030), 2007)~~

**§ 16C.0522.03.40.040. Improvements.**

Nothing in Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~ shall be construed to restrict normal structural repair and maintenance activities, including replacement of walls, fixtures and plumbing, provided that the value of work and materials in any twelve-month period does not exceed twenty-five percent of the assessed value of the structure prior to such work.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.40.040), 2007)~~

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**§ 16C.0522.03.40.050. Restoration.**

Nothing in Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~ shall be deemed to prohibit the restoration of the structural portions of a nonconforming use within six months from the date of its accidental damage by fire, explosion, or act of God; provided that the applicable elevation and/or floodproofing requirements of said chapters shall be adhered to if the structure is destroyed. A structure shall be considered to be destroyed if the restoration costs exceed fifty percent of the assessed value.

~~(1) Except as allowed by SB 5649-2023-24~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.40.050), 2007)~~

**Commented [NS22]:** To include new ecology waiver

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**§ 16C.0522.03.40.060. Discontinuance.**

If the nonconforming use is discontinued for a period of twelve consecutive months or more, the nonconforming status of the use is terminated and any future use of the land or structures shall be in conformity with the provisions of this title. The mere presence of a

structure, equipment, or material shall not be deemed to constitute the continuance of a nonconforming use unless the structure, equipment or material is actually being occupied or employed in maintaining such use. The ownership of property classed as nonconforming may be transferred without that fact alone affecting the right to continue such nonconforming use.

~~§ 16C.05.40.060~~ § 16C.05.40.060

~~nonconforming may be transferred without that fact alone affecting the right to continue such nonconforming use.~~

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.40.060), 2007)~~

## CHAPTER ~~16C.05~~22.03.44 FLOOD HAZARD PROTECTION ADMINISTRATION

### **§ 16C.0522.03.44.010. Designation of the Floodplain Administrator.**

The ~~Chief Building Official~~Yakima County Public Services Director or their designee is hereby designated as the Floodplain Administrator, and is vested with the duty of administering the rules and regulations relating to flood hazard protection in accordance with the provisions of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 and may prepare and require the use of such forms as are essential to such administration. The Floodplain Administrator may delegate authority to implement these provisions.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.010), 2007)~~

**Commented [NS23]:** changed to PS director per TH. Discussed the change from Building official to DH's position.

### **§ 16C.0522.03.44.020. Authority.**

Upon application, the ~~Chief Building Official~~Chief Building Official, in conjunction with the Floodplain Administrator, shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of the policies of the Critical Areas Ordinance.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.020), 2007)~~

**Commented [NS24]:** Check with DH

### **§ 16C.0522.03.44.030. Permit – Required.**

Prior to any construction or development within a special flood hazard area a flood hazard permit shall be obtained. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions," and for all development including fill and other activities, also as set forth in the "Definitions." This permit may be in addition to the critical area development authorization as set forth in Chapter ~~16C.05~~22.03 of this title.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.030), 2007)~~

### **§ 16C.0522.03.44.040. Permit – Application.**

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

- (1) Name, address and telephone number of applicant;
- (2) Name, address and telephone number of property owner;

- (3) Project description and taxation parcel number;
- (4) Name of the stream or body of water associated with the floodplain in which the development is proposed;

~~§ 16C.05.44.040~~ § 16C.05.44.050

(5) Site plan map showing:

- (a) Actual dimensions and shape of the parcel to be built on,
- (b) Sizes and location of existing structures on the parcel to the nearest foot,
- (c) Location and dimensions of the proposed development, structure or alteration,
- (d) Location, volume and type of any proposed fill,
- (e) The application shall include such other information as may be required by the administrative official, to clarify the application, including existing or proposed building or alteration, existing or proposed uses of the building and land, and number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot, and such other matters as may be necessary to determine conformance with and provide for the enforcement of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72;

(6) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.

(7) Elevation in relation to mean sea level to which any structure has been flood proofed;

(8) Where a structure is to be flood proofed, certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet flood proofing criteria in Section ~~16C.05~~22.03.28.020(2);

(9) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;

(10) Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation; and

(11) Information required by other sections of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72. (Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A) (16C.05.44.040), 2007)

(11) § ~~16C.05~~22.03.44.050. Permit – Review.

Duties of the Floodplain Administrator shall include, but not be limited to review all development permits to determine:

- (1) That the floodproofing requirements and other provisions of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 have been satisfied;
- (2) If the proposed development is located in the floodway, the floodway encroachment provisions of Section ~~16C.05~~22.03.36.020(2) are met;
- (3) If the proposed development includes the alteration or relocation of a watercourse, the provisions of Section ~~16C.05~~22.03.28.010(4) are met;

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~~§ 16C.05.44.050~~ § 16C.05.44.070

- (4) That the proposed development is a use permitted under Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 and YCC Title 19;
- (5) That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (6) The site is reasonably safe from flooding;
- (7) Notify FEMA when annexations occur in the Special Flood Hazard Area.
- (8) Notify FEMA of changes to the base flood elevation within six months of when technical information of such changes becomes available. Such notification shall include technical or scientific information.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Res. 80-2016 (Exh. A) (part), 2016; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.050), 2007)~~

**§ 16C.0522.03.44.055. Review of Building Permits.**

Where elevation data is not available, either through the FIS, FIRM, or from another authoritative source (Section ~~16C.05~~22.03.44.060), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. (Failure to elevate habitable buildings at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.)

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021)~~

**§ 16C.0522.03.44.060. Use of Available Data.**

When base flood elevation data has not been provided in accordance with Section ~~16C.05~~22.03.20.010 (Flood Hazard Areas Established), the Floodplain Administrator shall obtain, review, and reasonably utilize any flood area extent from frequently flooded areas, base flood elevation, and floodway data available from a federal, state or other source, in order to administer Section ~~16C.05~~22.03.28.020 (Specific Standards) and ~~16C.05~~22.03.36.020 (Prohibited Uses) and Chapter ~~16C.2204~~22.02 (Enforcement and Penalties). Best available data evaluation shall consider: (a) Data source reliability and methodology; (b) Age and currency of information; (c) Peer review and agency acceptance; (d) Local conditions and site-specific factors; (e) Climate change and future conditions analysis. Data evaluation shall be conducted by qualified professionals meeting standards established in WAC 365-195-905. ~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.060), 2007)~~

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**§ 16C.0522.03.44.065. Information to be Obtained and Maintained.**

- (1) Certification required by Section ~~16C.05~~22.03.36.020(2)(floodway encroachments).
- (2) Records of all variance actions, including justification for their issuance.
- (3) Improvement and damage calculations.

§ 46 (4) Maintain for public inspection all records pertaining to the provisions of this chapter.

**§ 16C.0522.03.44.070. Limitations.**

Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized is a violation of Chapters ~~16C.0522.03.20 through 16C.0522.03.72~~ and punishable as provided by Chapter ~~16C.0422.02~~ (Enforcement and Penalties).

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.070), 2007~~)

**§ 16C.0522.03.44.080. Permit – Expiration and Cancellation.**

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

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.080), 2007~~)

**§ 16C.0522.03.44.090. Performance Bonds.**

- (1) The county may require bonds in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with approvals under Chapters ~~16C.0522.03.20 through 16C.0522.03.72~~. Bonds, if required, shall be furnished by the property owner, or other person or agent in control of the property.
- (2) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the department in an amount equal to that which would be required in the surety bond.

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.090), 2007~~)

**§ 16C.0522.03.44.100. Appeals.**

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

(~~Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.44.100), 2007~~)

**Commented [NS26]:** Removed this section since it was talking about CAO permits/reviews, so I am refferencing it

**§ 16C.0522.03.44.110. Coordination.**

Upon application, the ~~Chief Building Official~~ ~~Chief Building Official~~, in conjunction with ~~the Floodplain Administrator~~, shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Chapters ~~16C.0522.03.20 through 16C.0522.03.72~~ and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of this title.

See table below for department responsibilities.

Table 4.1, Responsibilities.

Responsibility	Floodplain Administrator	Building Official	Planning Official
Flood Hazard Areas (YCC 22.03.20)			
Keep Flood Insurance Study and Maps on file	X		
Review compliance with Title 13 and International Codes		X	
Exemptions *Alteration of substantial improvement of Historic Structures *Installation of utility lines *Driveway, fences, and other accessory activities necessary for agricultural uses *Construction and Practices for agriculture	X	X	
Interpretations *Make interpretations to exact location of flood hazard boundaries	X	X	X
Flood Hazard Protection Standards (YCC 22.03.28)			
Anchoring and Construction Techniques		X	
Manufactured Homes		X	
Floodproofed Structures		X	
Floodproof Techniques		X	
Utilities	X		
Subdivision Proposals	X		X
Watercourse Alterations	X		
Residential Construction		X	
Non-Residential Construction	Comments	X	
Agricultural Construction	Comments	X	
Manufactured Homes		X	
Floodway Fringe Uses (YCC 22.03.32)			
Review Floodway Fringe Uses	X		X
Floodway Uses (YCC 22.03.36)			
Surface Mining	X		X
Utility Transmission Lines	X		
Residential Construction		X	
Improvement to Residential		X	

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<u>Water-dependent Utilities</u>	X		
<u>Dikes</u>	X		
<u>Public Works Roads and Bridges</u>	X		X
<u>Prohibited Uses</u>			
*Manufactured Homes			
*Encroachments, including fill			
*Residential Building within floodway	X	X	X
*Construction subject to floatation or movement during flood			
*Filling wetlands, landfills, damming, etc			
<b>Non-conforming Uses and Structures (YCC 22.03.40)</b>			
<u>Nonconforming Uses of Land</u>		X	
<u>Nonconforming Structures</u>		X	
<u>Improvements</u>		X	
<u>Restoration</u>		X	
<u>Discontinuance</u>		X	
<b>Flood Hazard Protection Administration (YCC 22.03.44)</b>			
<u>Vested to administer rules and regulations related to flood hazard protection</u>	X	X	X
<u>Authority to grant flood hazard permit</u>	X	X	
<u>Any development within special flood hazard area requires flood hazard permit</u>	X	X	X
<u>Review flood hazard permit</u>	X	X	
<u>When base flood elevation not provided make determination of base flood elevation</u>	X	X	
<u>Cancel permit for work not begun within 180 days from issuance</u>	X	X	
<u>Authority to grant a flood hazard permit when compliant with conditions of Chapters 22.03.20-22.03.72</u>	X	X	
<b>Elevation and Floodproofing Certification (YCC 22.03.48)</b>			
<u>Review Elevation Certificates</u>		X	
<u>Provide Elevation Certificate form</u>		X	
<u>Verify Elevation Certificate prior to</u>		X	

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<a href="#">construction</a>			
<a href="#">Variances (YCC 22.03.52)</a>			
<a href="#">Review variances</a>	X	X	X
<a href="#">Map Correction Procedures (YCC 22.03.72)</a>			
<a href="#">Follow 70 CFR of NFIP for map corrections</a>	X		
<a href="#">Other Non-Code Responsibilities</a>			
<a href="#">Accept/Catalogue No-Rise Certificates</a>	X		
<a href="#">Floodway determination on new maps</a>	X		
<a href="#">Flood insurance disputes/information</a>	X		
<a href="#">LOMA/LOMR/LOMC information/inquiry</a>	X		
<a href="#">Flood hazard mitigation</a>	X		
<a href="#">Flood warning/emergency response</a>	X		
<a href="#">Flood proofing/elevation of structures</a>	X	X	
<a href="#">Implementation of development regulations</a>	X		
<a href="#">Basin wide flood planning</a>	X		
<a href="#">Flood mitigation capital projects</a>	X		
<a href="#">Property acquisition reducing flood risk</a>	X		
<a href="#">Authorities and duties in RCW 86.15</a>	X		
<a href="#">Identification of flood issues</a>	X		
<a href="#">Comprehensive flood hazard management plans</a>	X		
<a href="#">Provide NFIP flood mapping and models</a>	X		
<a href="#">Identification of high risk flood areas and structures (HAZUS)</a>	X		
<a href="#">Community Rating System (CRS)</a>	X		
<a href="#">Manage/Operate county flood structures</a>	X		
<a href="#">Community Assistance Visits</a>	X		

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[Floodplain Administrator may delegate tasks to water resources staff.](#)

[Chief Building Official may delegate tasks to building staff.](#)

[Planning Official may delegate tasks to planning staff.](#)

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.05.44.110), 2007)~~

**CHAPTER ~~16C.05~~22.03.48  
ELEVATION AND FLOODPROOFING CERTIFICATION**

**§ ~~16C.05~~22.03.48.010. Applicability.**

Certification shall be provided to verify that the minimum floodproofing and elevation standards of Chapter ~~16C.05~~22.03.28 have been satisfied. Certification shall be required only for the new construction or substantial improvement of any residential, commercial, industrial or nonresidential structure located in a special flood hazard area, except that agricultural and certain accessory structures constructed in accordance with the standards of Section ~~16C.05~~22.03.28.020(3) shall not require certification. Such structures are still subject to elevation or floodproofing certification for flood insurance purposes. ~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.48.010), 2007~~

~~13-2007 § 1 (Exh. A) (16C.05.48.010), 2007~~

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**§ ~~16C.05~~22.03.48.020. Certification Form.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~13-2007 § 1 (Exh. A) (16C.05.48.020), 2007~~

**§ ~~16C.05~~22.03.48.030. Information to Be Obtained and Maintained.**

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

- (1) Where base flood elevation data is provided through the FIS, FIRM, or as required in Section ~~16C.05~~22.03.44.060, obtain and maintain a record of the actual elevation (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
- (2) For all new or substantially improved floodproofed non-residential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section ~~16C.05~~22.03.44.060:
  - (a) Obtain and maintain a record of elevation (in relation to mean sea level) to which the structure was flood proofed.
  - (b) Maintain the flood proofing certifications required in Section ~~16C.05~~22.03.44.040(8).
- (3) Where a base flood elevation has not been established according to Section ~~16C.05~~22.03.20.010, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) as related to the highest adjacent grade, and whether or not the structure contains a basement.  
~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord.~~

~~§ 16C.05.48.030~~

§ 16C.05.48.040

~~13-2007 § 1 (Exh. A)(16C.05.48.030), 2007~~

**§ 16C.0522.03.48.040. Certification Responsibility.**

The project proponent shall be responsible for providing required certification data to the ~~Chief Building Official~~Chief Building Official prior to the applicable construction inspection specified in the certification form. All elevation and floodproofing data specified in Section ~~16C.05~~22.03.48.030 must be obtained and certified by a registered professional engineer, architect, or surveyor. The elevation and floodproofing certification shall be permanently maintained by the ~~chief building official~~Chief Building Official.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.05.48.040), 2007)~~

**CHAPTER ~~16C.05~~22.03.52  
VARIANCES**

**§ 16C.0522.03.52.010. Procedure.**

Any person seeking a variance from the requirements of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 authorized under Section ~~16C.05~~22.03.52.020 shall make such request in writing to the department on forms supplied by the department. Upon receipt of a completed application and application fee for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent property within twenty days of the receipt of completed application and fee. The notice shall solicit written comment on the variance request and specify a time period not less than ten days from the date of mailing, during which written comments may be received and considered. The notice shall also state that copies of the administrative official's final decision will be mailed upon request. The administrative official may also solicit comments from any other person or public agency he or she feels may be affected by the proposal.

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.05.52.010), 2007)~~

**§ 16C.0522.03.52.020. Variance Limitations.**

- (1) Variances shall be limited solely to the consideration of:
  - (a) Elevation requirements for lowest floor construction;
  - (b) Elevation requirements for floodproofing;
  - (c) The type and extent of floodproofing.
- (2) Variances shall not be considered for any procedural or informational requirements or use prohibitions of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72.  
~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.05.52.020), 2007)~~

**§ 16C.0522.03.52.030. Conditions for Authorization.**

Before a variance to the provisions of Chapters ~~16C.05~~22.03.20 through ~~16C.05~~22.03.72 may be authorized, it shall be shown that:

- (1) There are special circumstances applicable to the subject property or to the intended use, such as size, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone; and
- (2) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located; and
- (3) Such a variance is the minimum necessary, considering the flood hazard, to afford relief; and

County of Yakima, WA

~~§ 16C.05.52.030~~ ~~§ 16C.05.52.070~~

- (4) Failure to grant the variance would result in exceptional hardship to the applicant; and
- (5) The granting of such a variance will not result in:
  - (a) Increased flood heights,
  - (b) Additional threats to public safety,
  - (c) Creation of nuisances,
  - (d) Extraordinary public expense,
  - (e) Conflicts with other existing local laws or ordinances.

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A) (16C.05.52.030), 2007)~~

**§ 16C.0522.03.52.040. Administrative Official's Decision.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A) (16C.05.52.040), 2007)~~

**§ 16C.0522.03.52.050. Notification and Final Decision.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A) (16C.05.52.050), 2007)~~

**§ 16C.0522.03.52.060. Power to Refer Decisions.**

In exercising the duties and powers of implementing and administrating Chapters ~~16C.0522.03.20~~ through ~~16C.0522.03.72~~, the administrative official may refer any variance application to the hearing examiner for action at a public hearing.

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A) (16C.05.52.060), 2007)~~

**§ 16C.0522.03.52.070. Appeals.**

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

~~(Ord. 8 2021 § 2(C) (Exh. 1), 2021; Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A) (16C.05.52.070), 2007)~~

**Commented [NS32]:** I took this section out so I am referring to 16C

**CHAPTER ~~16C.05~~22.03.72  
MAP CORRECTION PROCEDURES**

**§ ~~16C.05~~22.03.72.010. Federal Flood Hazard Map Correction Procedures.**

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

~~(Ord. 8-2021 § 2(C) (Exh. 1), 2021; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.05.72.010), 2007)~~

~~16C.06.01~~ § 16C.05.72.010

**CHAPTER ~~16C.06~~22.03.06  
FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM**

**Article I  
Introduction**

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

(1) The stream corridor system includes hydrologically related critical areas, streams, lakes, ponds, and wetlands, and is part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to help conserve, protect, and, where feasible, restore and enhance this complex relationship. These regulations have been designed to:

- (a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the functions and values of fish and wildlife habitat, wetlands, stream undercutting, geologic hazards and frequently flooded areas; and to give special consideration to anadromous fish;
- (b) Meet eligibility requirements of the National Flood Insurance Program (NFIP), and the authorities set forth in RCW 86.12;

(2) The guidelines, policies, and standards of this chapter are intended to:

- (a) Provide alternatives for necessary development, construction, and uses within a designated stream corridor and other hydrologically related critical areas;
- (b) Prevent further degradation in the quantity and quality of surface and subsurface waters;
- (c) Conserve, restore, and protect sensitive or unique fish and wildlife habitats, vegetation, and ecological relationships;
- (d) Protect public and private properties from adverse effects of improper development within hazardous or sensitive areas of the stream corridor;
- (e) Provide a zero net loss of natural wetlands functions and values together with

~~a gain of wetlands in the long term, if reasonably possible through voluntary agreements or government incentives;~~

- (f) Establish measures to protect streams, lakes, ponds, and wetlands;
- (g) Recognize that, based on WAC 365-190-130(1) (Fish and Wildlife Habitat Conservation Areas) fish and wildlife habitat conservation means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability. Fish and wildlife habitat conservation areas contribute to

County of Yakima, WA

**16C.06.0116C.06.02**

~~the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive based land conservation and stewardship programs.~~

~~(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 2 2009 § 2 (Exh. A (9)), 2009; Ord. 13 2007 § 1 (Exh. A)(16C.06.01), 2007)~~

**16C.06.02. Protection Approach.**

- (1) To maintain viable populations of fish and wildlife species, there must be adequate environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals at a variety of scales across the landscape. Key factors affecting habitat quality include fragmentation, the presence of essential resources such as food, water, nest building materials, the complexity of the environment, and the presence or absence of predator species and diseases. As a method of linking large habitat areas, migration corridors offer a means by which to connect publicly protected lands and other intact habitat areas. Riparian corridors offer a natural system of such linkages. Yakima County accomplishes fish and wildlife habitat protection in 3 parts:
  - (a) Protect habitat for aquatic (in-water) species through stream, lake, pond and wetland standards;
  - (b) Protect habitat for riparian (near water) species through stream, lake, pond, and wetland standards and management zone requirements;
  - (c) Protect habitat for upland species using the protection measures of Chapter 16C.11.
- (2) Yakima County has a very high proportion of federal, state and other publicly and tribally owned land, including State Natural Area Preserves and Natural Resource Conservation Areas. These lands are managed to some extent for the conservation of wildlife habitat. Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is to rely on the management of these lands by the responsible entity. The protection of Larch mountain salamander (*Plethodon larselli*) (State Sensitive, Federal Species of Concern) and spotted owl (*Strix*

~~occidentalis~~ (State Endangered, Federal Threatened) habitat is accomplished through this approach, since their habitat of primary association is located within Federal ownership.

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

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

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

(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 2 2009 § 2 (Exh. A (10), (11), (12)), 2009; Ord. 13 2007 § 1 (Exh. A) (16C.06.02), 2007)

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## Article II Designation and Mapping

### 16C.06.03. Hydrologically Related Critical Area Features.

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

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

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

**Mark:**

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

~~(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.06.03), 2007)~~

**16C.06.05. Functional Properties.**

- (1) ~~Streams, lakes and ponds and wetlands require a sufficient riparian area to support one or more of the following functional properties:~~
  - (a) ~~Streambank and shore stabilization;~~
  - (b) ~~Providing sufficient shade through canopy cover to maintain water temperatures at optimum levels and to support fish habitat;~~

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- (e) ~~Moderating the impact of stormwater and meltwater runoff;~~
- (d) ~~Filtering solids, nutrients, and harmful substances;~~
- (e) ~~Surface erosion prevention;~~
- (f) ~~Providing and maintaining migratory corridors for wildlife;~~
- (g) ~~Supporting a diversity of wildlife habitat;~~
- (h) ~~Providing floodplain functions noted below;~~
- (i) ~~Contributing woody debris and organic matter to the aquatic environment;~~
- (j) ~~Providing altered climatic conditions different from upland areas.~~

- (2) ~~Stream channels generally support one or more of the following functional properties:~~
  - (a) ~~Groundwater recharge and/or discharge;~~
  - (b) ~~Water transport;~~

- (e) Sediment transport and/or storage;
- (f) Biogeochemical functions (see lakes, ponds and wetland functions below);
- (g) Channel migration and creation of a dynamic habitat mosaic;
- (h) Food web and habitat functions.

(3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or lesser degree. Wetlands are often located along the margins of lakes and ponds, which often mixes the functions between the two. Lakes, ponds and wetlands generally provide one or more of the following functional properties:

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

(4) Floodplains generally provide one or more of the following functional properties:

- (a) Floodwater storage and passage, including the movement of high velocity flood waters;
- (b) Sediment storage and recruitment;

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- (c) Food web and habitat functions;
- (d) Nutrient sink and/or source;
- (e) Groundwater recharge and/or discharge.

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

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 2-2009 § 2 (Exh. A (14)), 2009; Ord. 13-2007 § 1 (Exh. A)(16C.06.05), 2007)

**16C.06.06. Stream, Lake and Pond Typing System.**

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

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

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

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

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

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

(6) Lakes and ponds not designated as a shoreline that receive water from the OHWM

6. Editor's Note: Appendix B and C is included as an attachment to the title.

7. Editor's Note: Appendix A is included as an attachment to the title.

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of a Type 2, 3, or 4 shall have the same surface water type as the highest stream-type associated with it.

(7) Natural lakes and ponds, not designated as a shoreline, that do not receive water from the OHWM of a Type 1, 2, 3, or 4 stream shall be Type 3 ponds.  
(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 4-2013 § 2 (Exh. 2) (part), 2013; Ord. 13-2007 § 1 (Exh. A) (16C.06.06), 2007)

#### **16C.06.07. Wetland Rating System.**

Wetlands within Yakima County are defined in Section 16C.02.425 and are shown on the data maps referenced in Section 16C.06.08 (Maps). Most, but not all, of the wetlands within Yakima County occur near streams. All wetlands deserve a standard of protection, through the use of vegetative management zones, that is directly related to their contribution to the functional properties listed in Section 16C.06.05 (Functional Properties) and Section 16C.07.04 (Wetland Functions and Rating). For regulatory purposes, wetlands are classified into four categories according to the wetland rating system found in Section 16C.07.04(2) (Wetland Functions and Rating) of the wetland chapter.

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A) (16C.06.07), 2007)

#### **16C.06.08. Maps.**

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

(1) ~~Regulatory maps are created with a defined process not necessarily corresponding directly with easily observable physical features such as streams and wetlands. These maps define the regulated critical areas. They are also formally adopted by the Board of Yakima County Commissioners and may only be changed by that body. Regulatory maps include the following:~~

(a) ~~Any floodway or floodplain identified as a special flood hazard area by the Federal Insurance Administration in the Flood Insurance Study for Yakima County.~~

(2) ~~Administrative maps are intended to indicate the approximate presence, location and/or typing of the subject critical area features, and act as a trigger for further investigation of the extent and characteristics of critical areas in a specific project location. These maps were created using reconnaissance level or better data. Given site specific variations in reconnaissance level data, more detailed information developed at the site specific level may be used to modify the maps as it is developed; the maps maintained by the Yakima County Public Services Department do not officially define the extent or characteristics of specific critical areas; rather~~

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~~the physical characteristics that exist "on the ground" define the boundaries of the regulated critical areas. Administrative maps include, but are not limited to the following:~~

(a) ~~Wetlands;~~

(b) ~~Streams;~~

(c) ~~Channel migration zone;~~

(d) ~~Priority Habitat and Species (PHS) and Habitats of Local Importance~~ Mapped habitat areas for newly listed species will be generated as needed to supplement the existing maps. PHS and Habitats of local importance currently include:

(i) ~~Available maps from WDFW regarding the location of those Priority Habitat and Species listed in Appendix B.~~

(ii) ~~Type 2 Streams, lakes and/or ponds listed in Appendix A.~~

(e) ~~Upland Wildlife Habitat Analysis Map.~~

(3) ~~Other Information Sources.~~ These are maps or other data sources, including special studies and management plans, which are neither produced or maintained by the Yakima County Public Services Department, which are used to indicate the presence of Critical Areas, importance or ranking of critical areas functions, or hazard or risk associated with Critical Areas. These information sources include, but are not limited to:

- (a) ~~Comprehensive Flood Hazard Management Plans and associated studies;~~
- (b) ~~Soil survey of Yakima County;~~
- (c) ~~Natural resource management plans, such as local and federal Recovery Plans, or Forest Plans prepared by the U.S. Forest Service;~~
- (d) ~~Surficial Geologic Maps;~~
- (e) ~~Historic and Current Aerial Photo Series;~~
- (f) ~~Geohydraulic studies—geologic cross sections showing aquifers and confining units;~~
- (g) ~~Priority Habitat and Species Maps.~~

~~(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 4 2013 § 2 (Exh. 2) (part), 2013; Ord. 13 2007 § 1 (Exh. A) (16C.06.08), 2007)~~

8. ~~Editor's Note: Appendix B is included as an attachment to the title.~~

9. ~~Editor's Note: Appendix A is included as an attachment to the title.~~

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### **Article III** **General Development Standards**

#### **16C.06.10. Prohibited Uses.**

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

- (1) ~~Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;~~
- (2) ~~Confinement feeding operations including livestock feedlots and dairy confinement areas;~~
- (3) ~~The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;~~
- (4) ~~The draining or filling of a wetland, lake or pond, except as provided for in Section 16C.06.21 (Filling);~~
- (5) ~~The removal and transport of material for fill outside of the stream corridor;~~
- (6) ~~Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds, and other similar waste disposal facilities. This provision does not include municipal wastewater lines or septic systems approved by a local or state agency with authority to permit such facilities;~~
- (7) ~~Solid waste disposal sites;~~
- (8) ~~Automobile wrecking yards;~~

- (9) ~~Fill for the sole purpose of increasing land area within the stream corridor;~~
- (10) ~~Those uses located within the floodway fringe that are listed in Section 16C.05.32.020 (new and expanded mobile or manufactured home parks);~~
- (11) ~~Those uses located within the floodway that are listed in Section 16C.05.36.020 (dwellings, filling wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and any use causing flood impacts);~~
- (12) ~~Construction or placement of an inhabitable structure within an identified landslide hazard area, landslide run-out area, or their management zones.~~

~~(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.06.10), 2007)~~

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

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

- (1) ~~The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland management zones shall be marked on the ground~~

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- ~~before any development, construction, or use is initiated.~~
- (2) ~~Any disturbance to existing riparian vegetation and any unique or sensitive vegetative species identified on the project site within the stream corridor shall be mitigated according to the standards set forth in Section 16C.03.10.~~
- (3) ~~Any disturbance to nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be mitigated according to the standards set forth in Section 16C.03.10.~~
- (4) ~~Projects within the stream corridor shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered.~~
- (5) ~~Stormwater and Erosion Control. Developments that obtain a stormwater permit approved by a local, state or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the Yakima Regional Stormwater Manual are considered to have met the following required development standards that apply to all projects:~~
  - (a) ~~Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.~~
  - (b) ~~The removal of ground cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion.~~
  - (c) ~~The removal of ground cover vegetation, excavation, and grading shall be~~

~~scheduled to ensure the minimal duration of exposed, unprotected soils.~~

- (d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and meltwater runoff into stream channels, drainage ways, and conduits, shall provide on site or off site facilities for the detention, control, and filtration of such increases.
- (e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.
- (f) Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.
- (6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.

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- (7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.
- (8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.
- (9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.
- (10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.
- (11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.
- (12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.
- (13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.
- (14) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

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

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

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

(18) If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify Yakima County, the Washington State Office of Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and reecords) and RCW 27.53 (Archaeological sites and records), and development or

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uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).

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

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

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

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

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

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

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

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.06.11), 2007)

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#### Article IV

#### Water Dependency Development Standards and Management zone Requirements

##### 16C.06.12. Use Classifications.

For purposes of this chapter, the components of any development, construction, or use

~~requiring a critical area development authorization shall be classified as provided below, and shall conform with the development standards applicable to the classification provided in Sections 16C.06.13 through 16C.06.15, except for those activities listed in Section 16C.03.05 (Minor Activities Allowed Without a Permit):~~

(1) ~~Water oriented uses are one of the following two categories of uses:~~

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

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

~~(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 6 2011 § 2 (Exh. A) (part), 2011; Ord. 13-2007 § 1 (Exh. A)(16C.06.12), 2007)~~

#### **16C.06.13. Water dependent Uses.**

~~The following provisions shall apply to water dependent uses:~~

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

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~~(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.06.13), 2007)~~

#### **16C.06.14. Water related Uses.**

~~The following provisions shall apply to water related uses:~~

- (1) ~~Structures and use areas shall be located as far landward from the ordinary high~~

~~water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water;~~

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

(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.06.14), 2007)

#### **16C.06.15. Nonwater Oriented Uses.**

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

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

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

(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.06.15), 2007)

#### **16C.06.16. Vegetative Management zones.**

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

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

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

(c) ~~The adequacy of these standard management zone widths presumes the existence of a relatively intact native vegetation community in the management zone zone adequate to protect the stream functions and values at the time of the proposed activity. If~~

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~~the vegetation is degraded, then no adjustment to the management zone width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded management zone should be re-vegetated to maintain the standard width.~~

**Table 6-1**

Stream Type	Management zone Width See <a href="#">16C.22.06.16</a> , subsections (1)(a)-(c).
Type 1 Shoreline streams, lakes and ponds	100' (Type 1 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D) rather than the Critical Areas Ordinance (YCC Title 16C))
Type 2 streams, lakes and ponds	100'
Type 3 streams (Perennial), lakes and ponds	50'
Type 4 streams (Intermittent), lakes and ponds	25'
Type 5 streams (Ephemeral)	<b>No management zone standards</b> Type 5 streams are not regulated through management zone requirements. However, activities such as clearing, grading, dumping, filling, or activities that restrict or block flow, redirect flow to a point other than the original exit point from the property or result in the potential to deliver sediment to a drainage way/channel, are regulated under clearing and grading regulations. These drainages may also be protected under geologically hazardous area, floodplain, stormwater, building and construction, or other development regulations.

(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.06.23), 2007)

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## **CHAPTER 16C.07 WETLANDS**

### **16C.07.01. Purpose and Intent.**

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

(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.07.01), 2007)

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

Wetlands are those areas that meet the definition found in Section 16C.02.425 as provided in RCW 36.70A.030(21). All areas within Yakima County meeting the wetland definition are hereby designated critical areas and are subject to the provisions of this title. The following clarifications guide the application of the wetland definition:

Due to the inherent design of most irrigation systems, such systems are reasonably and foreseeably expected to result in some leakage or seepage. Such leakage or seepage is a normal result of utilization of irrigation systems and is deemed for the purposes of this title to be a nonregulated, artificial wetland.

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

(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.07.02), 2007)

### **16C.07.03. Protection Approach.**

Wetlands will be protected using the protection approach for Hydrologically Related Critical Areas

found in Section 16C.06.02 (Protection Approach), which accommodates issues affecting wetlands. Wetlands and their functions will be protected using the standards found in the Stream Corridor Chapter (16C.06), which includes provisions to:

Follow mitigation sequencing as outlined in Section 16C.03.10 (Mitigation Requirements);

Avoid degrading the functions and values of the wetland and other critical areas;

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Provide a zero net loss of wetland functions and values together with, if reasonably possible through voluntary agreements or government incentives, a gain in functions and values through the long-term.

(Ord. 5 2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13 2007 § 1 (Exh. A)(16C.07.03), 2007)

#### 16C.07.04. Wetland Functions and Rating

Wetlands are unique landscape features that are the interface between the aquatic and terrestrial environments. Wetlands provide the following functions:

Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed such as: nutrient retention and transformation, sediment retention, metals and toxics retention, and transformation;

Hydrologic functions, which are related to maintaining the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, groundwater recharge;

Food web and habitat functions, which includes habitat for: invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.

Wetlands shall be rated based on categories that reflect the functions and values of each wetland.

Wetland categories shall be based on the criteria provided in the *Washington State Wetland Rating System for Eastern Washington, 2014 Update* (Ecology Publication #14-06-030 —

<https://fortress.wa.gov/ecy/publications/SummaryPages/1406030.html>) as determined using the appropriate rating forms contained in that publication. These categories are summarized as follows: Category I wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible or too difficult to replace within a human lifetime, and provide a high level of functions. Generally, these wetlands are not common and make up a small percentage of the wetlands within Yakima County. The following types of wetlands are Category I:

Alkali wetlands are characterized by the presence of shallow saline water with a high pH and provide the primary habitat for several species of migrant shorebirds and are also heavily used by migrant waterfowl and small alkali bee that is used to pollinate alfalfa and onion for seed production; Wetlands of High Conservation Value (formerly called Natural Heritage Wetlands) — Wetlands that are identified by scientists of the Washington Department of Natural Resources Natural Heritage Program as important ecosystems for maintaining plant diversity that represent rare plant communities or provide habitat for rare plants are uncommon in eastern

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Washington;

Bogs and Calcareous Fens are peat wetlands sensitive to disturbance and have not been successfully re-created through compensatory mitigation. Bogs are wetlands with peat soils and a low pH, usually a pH <5. Calcareous fens are a type of alkaline, rather than acidic wetland, maintained by groundwater that have a neutral or high pH and high concentrations of calcium and other alkaline minerals;

Mature and old growth forested wetlands with native slow growing trees, which include Western Red Cedar (*Thuja plicata*), Alaska Yellow Cedar (*Chamaecyparis nootkatensis*), pine spp. (mostly White pine — *Pinus monticola*), Western Hemlock (*Tsuga heterophylla*), Oregon White Oak (*Quercus garryana*) and Englemann Spruce (*Picea engelmannii*);

~~Forested wetlands with stands of Aspen contribution as a priority habitat far exceeds the small acreage of these stands and relatively small number of stems (Hadfield & Magelssen, 2004). Furthermore, mature stand of aspen and its underground root system may be difficult to reproduce. Regeneration of aspen stands by sexually produced seeds is an unusual phenomenon (Romme et al., 1997);~~

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

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

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

~~Mature and old growth forested wetlands with fast growing native trees, which include Alders (Red—*Alnus rubra*, Thin leaf—*A. incana* ssp. *tenuifolia*), Cottonwoods (Narrow leaf—*Populus angustifolia*, Black—*P. balsamifera*), Willows (Peach leaf—*Salix amygdaloides*, Sitka—*S. sitchensis*, Pacific—*S. lasiandra*); Quaking Aspen (*Populus tremuloides*), or Water Birch (*Betula occidentalis*); Vernal pools, also called rainpools, are ecosystems located in a landscape with other wetlands that retain water until the late spring when they dry~~

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~~out to allow some strictly aquatic organisms to flourish, and provide areas where migrating waterfowl can find food and pair bonding;~~

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

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

~~Vernal pools that are isolated; and~~

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

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

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

~~(Ord. 10-2019 (Exh. 1) (part), 2019; Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.07.04), 2007~~

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

~~Projects that propose to compensate for wetland acreage and/or functions are subject to State and Federal~~

regulations. Compensatory mitigation for alterations to wetlands shall provide no net loss of wetland functions and values, and must be consistent with the Mitigation Plan Requirements in Section 16C.03.17(13) (Compensatory Mitigation Plans). The following guidance documents were developed to assist applicants in meeting the regulations and requirements:

Compensatory mitigation plans must be consistent with Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance and Wetland Mitigation in

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Washington State Part 2: Developing Mitigation Plans or as revised (see latest update at <http://www.eey.wa.gov/programs/sea/Wetlands/mitigation/guidance/index.html>).

(1) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent with "Wetlands in Washington State—Volume 2: Guidance for Protecting and Managing Wetlands—Appendix 8-D Section 8D.3" or as revised (Washington State Department of Ecology. Publication No. 05-06-008 <https://fortress.wa.gov/eey/publications/parts/0506008part2.pdf>). (Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.07.05), 2007)

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

(1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- The bank is certified under RCW 90.84 and its administrative rules, WAC 173-700;
- The Administrative Official determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
- The proposed use of credits is consistent with the terms and conditions of the bank's certification.

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

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

(Ord. 5-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 13-2007 § 1 (Exh. A)(16C.07.06),