

ORDINANCE 2016 - 01

**AN ORDINANCE OF THE CITY OF SUNNYSIDE, WASHINGTON,
AMENDING SMC TITLE 18 ENVIRONMENTAL
ADDING SECTION 18.06 CRITICAL AREAS**

WHEREAS, the Washington State Growth Management Act (GMA) requires the City of Sunnyside to review and evaluate its development regulations and to take legislative action, if needed, to revise its development regulations to ensure they comply with the requirements of, and time periods in, RCW 36.70A; and

WHEREAS, City of Sunnyside is adopting the Yakima County Critical Areas Ordinance attached Exhibit 1 by reference as part of the required seven year plan update requirement of the Growth Management Act; and

WHEREAS, the schedule established by the GMA in RCW 36.70A.130(4) mandates each city in Washington to take action to review and, if necessary, revise its comprehensive plan to ensure compliance with the Growth Management Act; and

WHEREAS, the City has updated the Comprehensive Plan to ensure compliance with changes to the GMA; to ensure compliance with the Yakima County Countywide Planning Policies; to fully reflect the issues and opportunities facing the City of Sunnyside; and to revise policies and other language in the plan to update information, improve readability, and eliminate redundancy; and

WHEREAS, the City Council has reviewed the Yakima County Critical Areas Ordinance; and

WHEREAS, the City Council held a properly advertised public hearing on February 22, 2016 at the City Council Chambers, 401 Homer Ave Sunnyside, WA for the purpose of taking testimony on the proposed adoption of the Yakima County Critical Areas Ordinance Title 16C by reference; and

WHEREAS, the City Council has carefully considered oral and written testimony from the public and recommendations from staff; and

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

WHEREAS, the City Council finds and concludes that adoption and implementation of the Critical Areas Ordinance to be in the best interest and essential to direct future growth and development of the City of Sunnyside, consistent with the City's Comprehensive Plan, now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, AS FOLLOWS:

Section 1. Findings and Conclusions. The City Council bases its findings and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the City Council. The City Council hereby adopts the following findings and conclusions:

- 1) The City Council adopts and incorporates the foregoing recitals as fully set forth herein.
- 2) *Compliance with the Required Elements of the Comprehensive Plan.* The 20-year Comprehensive Plan includes reference to the Proposed Critical Areas Ordinance.
- 3) *Compliance with Resource and Critical Areas Designation and Regulation.* Potential resource and critical areas are identified in the Natural Systems Element using Best Available Science.
- 4) *Compliance with Countywide Policies.* As required by GMA, the Comprehensive Plan incorporates and is consistent with the Yakima County Countywide Planning Policies.
- 5) *Internal Consistency.* The Comprehensive Plan is internally consistent.
 - a. The policies within and among elements are complementary, not contradictory. Both together and separately, they further the goals of the GMA.
 - b. The Comprehensive Plan contains policies, implementation measures, and procedures which provide for its review and adjustment if internal conflicts are identified.
- 6) *Public Participation.* The public review process for the Critical Areas Ordinance included one public hearing before the Sunnyside City Council on February 22, 2016; and consideration during a Planning Commission meeting on February 9, 2016. Notices of the public hearing and the nature of the proposed changes were given by publication in the official newspaper of the City at least 10 days prior to the date of the hearing.
- 7) *Department of Commerce 60-day Review.* The ordinance will be submitted to Commerce after adoption for the mandatory 60-day review.
- 8) The public use and interest will be served.

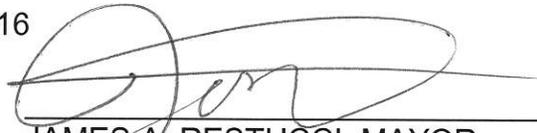
Section 2. Adoption of the Yakima County Critical Areas Ordinance. The City of Sunnyside hereby adopts the Yakima County Critical Area Ordinance by reference, a copy of which is attached hereto as "Exhibit A" and a copy shall be filed in the office of city clerk for use and examination by the public in accordance with RCW 35A.12.140.

Section 3. Transmittal to State. This ordinance shall be submitted to the Washington Department of Commerce for their records within 10 days of adoption.

Section 4. Severability/Validity. The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases were unconstitutional or invalid.

Section 5. Effective Date. This ordinance shall be in full force and effect 5 days after its passage and publication as required by law.

PASSED this 22nd day of February, 2016



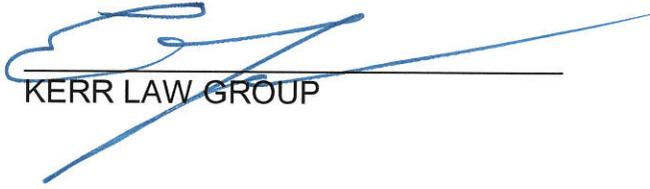
JAMES A. RESTUCCI, MAYOR

ATTEST:



DEBORAH ESTRADA, CMC, CITY CLERK

APPROVED AS TO FORM:



KERR LAW GROUP

EXHIBIT A

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**Chapter 16C.01
GENERAL PROVISIONS**

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16C.01.01 Title and Authority

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

16C.01.02 Language Interpretation

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

16C.01.03 Purpose of Title

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

16C.01.04 Intent of Title

(1) Title 16C establishes policies, standards, and other provisions pertaining to development within designated critical areas regulated under the provisions of the Growth Management Act (RCW 36.70A), and development regulated under the National Flood Insurance Program. Additional purpose and intent for the protection of critical areas is provided in the chapter on each subject. Stream corridors, flood hazard areas, wetlands, critical aquifer recharge areas, geologically hazardous areas and fish and wildlife habitat areas constitute Yakima County's critical areas. These areas are of special concern to the people of Yakima County and the state of Washington because they are environmentally sensitive lands, or hazardous areas, which comprise an important part of the county's natural resource base. The policies, standards and procedures of this title are intended to:

- (a) Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions, particularly the functional properties of stream corridors and other hydrologically related critical areas;
- (b) Prevent further degradation of critical areas;

- 72 (c) Conserve, protect and, where feasible, restore essential or important natural resources.
- 73 (d) Protect the public health, safety and general welfare;
- 74 (e) Further the goals and objectives of the Yakima County Comprehensive Plan and all of its
- 75 elements;
- 76 (f) Implement the goals and requirements of the Washington Growth Management Act
- 77 (RCW Chapter 36.70A), and the National Flood Insurance Program;
- 78 (g) Recognize and protect private property rights;
- 79 (h) Provide development options for landowners of all existing lots to the greatest extent
- 80 possible, through the establishment of Adjustment, Reasonable Use provisions and Non-
- 81 Conforming Use and Facility provisions;
- 82 (i)

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

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

96
97 **16C.01.05 Applicability**

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

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

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

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

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

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

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

- 105 (a) Within critical areas designated by this title or amendments that may later be adopted,
- 106 there may exist lots, structures and uses which were lawfully established before this title
- 107 was initially adopted, amended or readopted, as provided below, but which would be
- 108 subsequently prohibited, regulated or restricted under this ordinance. It is the intent of
- 109 this title to permit these pre-existing legal non-conformities to continue without
- 110 requirement to change said non-conformity until such time as conformance is required
- 111 through permits for development in the future. The adoption and amendment dates of the
- 112 relevant regulations are provided below;
- 113 i) Critical Areas Ordinance adopted July 12, 1994;
- 114 ii) Critical Areas Ordinance amended October 1, 1995;
- 115 iii) Flood Hazard Ordinance adopted June 5, 1985.
- 116 (b) Critical areas on federally owned lands are not subject to this title;

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

162 replacement facility is no closer to a critical area than the original facility; and
163 maintaining agricultural lands under production or cultivation.

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

171

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

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

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

181

182 **16C.01.08 Administrative Authority**

183 1) The Yakima County Public Services Department - Planning Division shall be responsible for
184 the general administration of this title. The Planning Division Manager or the Manager's
185 designee shall serve as the Administrative Official of this title, except as noted in Chapters
186 16C.05.20 through 16C.05.72. The Administrative Official shall establish procedures for
187 implementation of this title.

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

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

199

200 **16C.01.09 Severability**

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

204

205 **Chapter 16C.02**
206 **DEFINITIONS**
207

208 **16C.02.001 Definitions Generally**

- 209 (a) Whenever the words and terms set forth in this chapter appear in this title, they shall be
210 given the meaning attributed to them by this chapter. References to specific provisions of
211 YCC Title 13 and the International Building Codes, statutes and Washington
212 Administrative Code provide greater detail for purposes of administering this title.
213 (b) Definitions listed in this chapter shall be applied to all critical areas, including Flood
214 Hazard Areas, unless the definition itself identifies the term as applying to Flood Hazard
215 administration, in which case the definition only applies to that situation.
216

217 **16C.02.005 Abutting**

218 "Abutting" means bordering upon, to touch upon, or in physical contact with. Sites are
219 considered abutting even though the area of contact may be only a point.
220

221 **16C.02.010 Adjacent**

222 "Adjacent" means to be nearby and not necessarily abutting.
223

224 **16C.02.012 Administrative Official**

225 "Administrative Official" means the duly appointed Planning Division Manager of the Public
226 Services Department, or his designee, or the relevant decision maker identified in YCC Title 16B
227 (Project Permit Administration); synonymous with "administrator" or "director."
228

229 **16C.02.025 Alluvial fan**

230 "Alluvial fan" is a low, outspread, relatively flat to gently sloping feature, shaped like an open
231 fan or a segment of a cone, deposited by a stream at the place where it issues from a valley upon
232 a plain or broad valley, or where a tributary stream is near or at its junction with the main stream,
233 or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly
234 decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes
235 gently and convexly outward with gradually decreasing gradient.
236

237 **16C.02.030 Applicant**

238 "Applicant" means a person, party, firm, corporation, or other legal entity that proposes a
239 development, construction or use on a site.
240

241 **16C.02.035 Aquifer**

242 "Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to
243 serve as a private or public water supply.
244

245 **16C.02.040 Critical Aquifer Recharge Area**

246 "Critical Aquifer Recharge Area" means an area with a critical recharging effect on aquifers used
247 for potable water, or areas where a drinking aquifer is vulnerable to contamination that would
248 affect the potability of the water.
249
250

251 **16C.02.042 Bank**
252 "Bank" means the land surface above the ordinary high water mark that abuts a body of water
253 and contains it to the bankfull depth.
254

255 **16C.02.043 Bankfull depth**
256 "Bankfull depth" means the average vertical distance between the channel bed and the estimated
257 water surface elevation required to completely fill the channel to a point above which water
258 would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels
259 exist, the bankfull depth is the average depth of all channels along the cross-section.
260

261 **16C.02.044 Base Flood**
262 "Base Flood" for purposes of administering 16C.05 means the flood having a 1-percent chance
263 of being equaled or exceeded in any given year. (Ref. IBC 1612.2)
264

265 **16C.02.045 Base Flood Elevation**
266 "Base flood elevation" for purposes of administering 16C.05 means the elevation of the base
267 flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North
268 American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map
269 (FIRM). (Ref. IBC1612.2)
270

271 **16C.02.046 Basement**
272 "Basement" for purposes of administering 16C.05 means any area of the building having its floor
273 subgrade (below ground level) on all sides. (Ref. IBC 1612.2)
274

275 **16C.02.055 Bed**
276 "Bed" means the land below the ordinary high water lines of state waters. This definition shall
277 not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses
278 except where they exist in a natural watercourse that has been altered by man.
279

280 **16C.02.060 Bedrock**
281 "Bedrock" means in-place solid rock.
282

283 **16C.02.065 Berm**
284 "Berm" means a mound of earth material used as a protective barrier or to control the direction of
285 water flow.
286

287 **16C.02.067 Best Management Practices**
288 "Best Management Practices" or "BMPs" means schedules of activities, practices, maintenance
289 procedures, and structural and/or managerial practices that, when used singly or in a combination
290 prevent or reduce adverse impacts to the environment.
291

292 **16C.02.070 Bioengineering**
293 "Bioengineering" means project designs or construction methods which use live woody
294 vegetation or a combination of live woody vegetation and specially developed natural or
295 synthetic materials to establish a complex root grid within the existing bank which is resistant to
296 erosion, provides bank stability, and maintains a healthy riparian environment with habitat

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

299

300 **16C.02.075 Breakwater**

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

303

304 **16C.02.080 Bulkhead**

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

308

309 **16C.02.085 Channel**

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

313

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

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

317

318 **16C.02.095 Classification**

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

321

322 **16C.02.100 Clearing**

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

325

326 **16C.02.110 Compaction**

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

328

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

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

335

336 **16C.02.120 Construction**

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

339

340 **16C.02.125 Designated**

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

342

343 **16C.02.130 Department**
344 "Department" means the Yakima County Public Services Department, Planning Division.
345

346 **16C.02.135 Development**
347 "Development" means the division of land into lots or parcels in accordance with the county
348 Subdivision Ordinance, and any clearing, excavation, dredging, drilling, filling, dumping,
349 removal of earth and mineral materials, or other permanent or temporary modification of a site
350 up to, but not including, construction as defined in this chapter. For the purpose of Chapters
351 16C.05.20 through 16C.05.72, "development" also means any manmade change to improved or
352 unimproved real estate located within the special flood hazard area, including but not limited to
353 buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling,
354 temporary or permanent storage of equipment and works defined in this chapter. (Ref. IBC G
355 201.2)
356

357 **16C.02.140 Dike**
358 "Dike" means an embankment to prevent flooding by a stream or other water body. A dike is
359 also referred to as a levee.
360

361 **16C.02.145 Dock**
362 "Dock" means a structure built over or floating upon the water and used as a landing place for
363 boats and other marine transport, fishing, swimming, and other recreational uses.
364

365 **16C.02.150 Dredging**
366 "Dredging" means removal of earth from the bed of a stream, lake, or pond for the purpose of
367 increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill
368 materials. This definition does not include excavation for mining within a pond created by a
369 mining operation approved under this title or under a local zoning ordinance, or a mining
370 operation in existence before Zoning, Shorelines, or Critical Areas permits were required for
371 such operations.
372

373 **16C.02.160 Earth Material**
374 "Earth material" means any rock, natural soil, or combination thereof.
375

376 **16C.02.170 Enhance**
377 "Enhance" means to strengthen any of the basic functional properties listed in Section 16C.06.05
378 that exist but do not perform at optimum efficiency. "Optimum" refers to the most favorable or
379 best performance of each function achievable for a specific segment of stream corridor.
380

381 **16C.02.175 Ephemeral Stream**
382 "Ephemeral stream" means a stream that flows only in response to precipitation with no
383 groundwater association, usually less than 30 days per year. The lack of any groundwater
384 association results in a lack of a distinctive riparian vegetation compared to the surrounding
385 landscape.
386

387 **16C.02.180 Erosion**

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

390

391 **16C.02.190 Excavation**

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

393

394 **16C.02.200 Fill**

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

401

402 **16C.02.205 Flood**

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

406

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

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

410

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

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

415

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

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

420

421 **16C.02.210 Floodplain**

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

427

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

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

433

434 **16C.02.216 Flood-proofing**
435 "Flood-proofing" for purposes of administering 16C.05 means any combination of structural and
436 nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood
437 damages to lands, water and sanitary facilities, structures and contents of buildings.
438

439 **16C.02.220 Floodway**
440 "Floodway" means the regular channel of a river, stream, or other watercourse, plus the adjacent
441 land areas that must be reserved in order to discharge the base flood without cumulatively
442 increasing the water surface elevation more than one foot.
443

444 **16C.02.225 Floodway Fringe**
445 "Floodway fringe" for purposes of administering 16C.05 means that portion of a floodplain
446 which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve
447 as temporary storage for floodwaters.
448

449 **16C.02.230 Forest Land**
450 "Forest land" means land primarily devoted to forest practices activities.
451

452 **16C.02.240 Forest Practices**
453 "Forest practices" means activities conducted under federal forest practices approval or under a
454 Forest Practices permit reviewed and approved by the Washington Department of Natural
455 Resources pertaining to the management of forest land, including growing, managing,
456 harvesting, and interim storage of merchantable timber for commercial value, as well as
457 incidental activities reviewed under federal or state approval, such as road construction and
458 maintenance (including bridges) and mining activities.
459

460 **16C.02.250 Grade**
461 "Grade" means the vertical location of the ground surface. "Natural grade" is the grade as it
462 exists or may have existed in its original undisturbed condition. "Existing grade" is the current
463 grade in either its undisturbed, natural condition or as disturbed by some previous modification.
464 "Rough grade" is a stage where grade conforms approximately to an approved plan. "Finish
465 grade" is the final grade of the site which conforms to an approved plan.
466

467 **16C.02.255 Grading**
468 "Grading" means any excavation, filling, or combination thereof.
469

470 **16C.02.260 Groundwater**
471 "Groundwater" means water that occurs beneath the land surface, also called subsurface water or
472 subterranean water. Groundwater includes water in the zone of saturation of a water-bearing
473 formation.
474

475 **16C.02.061 Hazardous Materials**
476 "Hazardous materials" means any material, either singularly or in combination, that is a physical
477 or health hazard as defined and classified in the International Fire Code, whether the materials
478 are in usable or waste condition; any material that may degrade groundwater quality when
479 improperly stored, handled, treated, used, produced, recycled, disposed of, or otherwise

480 mismanaged; any hazardous waste, hazardous substance, dangerous waste, or extremely
481 hazardous waste that is a physical or health hazard as defined or classified in Chapter 70.105
482 RCW and Chapter 173-303 WAC, whether the materials are in usable or waste condition; and
483 petroleum or petroleum products that are in a liquid phase at ambient temperatures, including
484 any waste oils or sludge.

485

486 **16C.02.263 Hydrologically Related Critical Areas (HRCA)**

487 "Hydrologically related critical areas (HRCA)" include all those areas identified in section
488 16C.06.03, within Yakima County which are important and deserving of protection by nature of
489 their value for the functional properties found in Section 16C.06.05.

490

491 **16C.02.266 Hyporheic**

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

494

495 **16C.02.270 Intermittent Streams**

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

501

502 **16C.02.275 Lake or pond**

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

506

507 **16C.02.281 Lowest Floor**

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

513

514 **16C.02.282 Manufactured Home**

515 "Manufactured home" means a structure fabricated on a permanent chassis that is transportable
516 in one or more sections; is designed to be used with or without a permanent foundation when
517 connected to the required facilities; has sleeping, cooking, and plumbing facilities or any
518 combination thereof; and is intended for human occupancy or is being used for residential
519 purposes. Although Washington Administrative Code (WAC) and Yakima County Code Titles
520 13 and 15 separately define and distinguish between "manufactured home" and "mobile home"
521 according to federal or state construction codes for such dwellings, the term "manufactured
522 home" shall include "mobile home" for regulatory purposes under this chapter. The term shall
523 not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park
524 trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or
525 used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a

526 manufactured or mobile home under any federal or state law. For floodplain management
527 purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and
528 other similar vehicles shall be considered manufactured homes when placed on a site for greater
529 than one hundred eighty days.

530

531 **16C.02.283 Manufactured Home Park or Subdivision**

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

535

536 **16C.02.284 Manufactured Home Park or Subdivision, Existing**

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

542

543 **16C.02.285 Minerals**

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

545

546 **16C.02.290 Mining**

547 "Mining" means the removal of naturally occurring minerals and materials from the earth for
548 commercial value. Mining includes processing and batching. Mining does not include large
549 excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation
550 (16C.06.20).

551

552 **16C.02.295 Native**

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

554

555 **16C.02.300 Natural Conditions**

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

558

559 **16C.02.302 New Construction**

560 "New construction" for purposes of administering 16C.05 means structures for which the start of
561 construction commenced on or after June 5, 1985, the date Yakima County enacted Ordinance 3-
562 1985 in order to meet the requirements of the National Flood Insurance Program. October 1,
563 1995, the effective date of the ordinance codified in this title shall be used for defining the term
564 new construction as it applies to all other Critical Areas requirements established under this title
565 by Ordinance 8-1995.

566

567 **16C.02.303 Nonconforming Structure**

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

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16C.02.304 Nonconforming Use

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

16C.02.305 Ordinary High Water Mark (OHWM)

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

16C.02.310 Perennial Stream

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

16C.02.320 Project Site

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

16C.02.321 Qualified Professional

"A qualified professional" shall meet the following criteria:

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

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

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

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

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

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

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

(h) A qualified professional for habitat assessments and habitat management plans must have a bachelors degree or higher in biology and professional experience related to the subject species or habitat.

618 (i) Or other person/persons with experience, training, expertise and related work experience
619 appropriate for the relevant critical area subjects determined to be acceptable to the
620 Administrative Official.

621

622 **16C.02.322 Recreation Vehicle**

623 "Recreation vehicle" means a vehicle which is:

624 (1) Built on a single chassis;

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

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

627 (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for

628 recreational, camping, travel, or seasonal use.

629

630 **16C.02.325 Restore**

631 "Restore" means to re-establish the basic functional properties listed in Section 16C.06.05 that

632 have been lost or destroyed through natural events or human activity. This may be accomplished

633 through measures including but not limited to re-vegetation, removal of intrusive structures and

634 removal or treatment of toxic materials. Restoration does not imply a requirement for returning

635 the site to aboriginal or pre-European settlement conditions.

636

637 **16C.02.330 Revetment**

638 "Revetment" means a facing placed on a bank or bluff to protect a slope, embankment, or shore

639 structure against erosion by wave action or currents.

640

641 **16C.02.335 Riparian vegetation**

642 "Riparian Vegetation" means the terrestrial vegetation that grows beside rivers, streams, and

643 other freshwater bodies and that depends on these water sources for soil moisture greater than

644 would otherwise be available from local precipitation.

645

646 **16C.02.340 Riprap**

647 "Riprap" means a layer, facing, or protective mound of stones randomly placed to prevent

648 erosion, scour, or sloughing of a structure or embankment; also the stone used for this purpose.

649

650 **16C.02.345 Scour**

651 "Scour" means the removal of underwater material by waves and currents, especially at the base

652 or toe of a shore stabilization structure.

653

654 **16C.02.355 Shoreline**

655 "Shoreline," as used in the title, means those water areas, the associated features, and the land

656 areas within Yakima County that are subject to the State Shoreline Management Act, especially

657 as defined in RCW 90.58.030 (definitions), and as further identified in section 16D.10.03

658 (Shoreline Jurisdiction) of the Shoreline Master Program (YCC Title 16D) .

659

660 **16C.02.360 Shore Stabilization**

661 "Shore stabilization" means the construction or modification of bulkheads, retaining walls, dikes,

662 levies, riprap, breakwaters, jetties, groins, weirs, and other structures along the shore, for the

663 purpose of controlling stream undercutting, stream erosion or lake shore erosion.

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16C.02.365 Slope

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

16C.02.366 Solid Waste

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

16C.02.367 Special Flood Hazard Areas

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

16C.02.368 Start of Construction

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

16C.02.370 Stream

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

16C.02.380 Stream Corridor

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

16C.02.390 Structure

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

714

715 **16C.02.395 Substantial Improvement**

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

719

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

721

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

723

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

730

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

734

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

737

738 **16C.02.400 Use**

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

741

742 **16C.02.415 Vegetative Buffer or Buffer**

743 "Vegetative buffer or Buffer" means an area extending landward from the ordinary high water
744 mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise
745 allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for
746 the performance of the basic functional properties of a stream corridor, wetland and other
747 hydrologically related critical areas as set forth in Chapter 16C.06.05 (Functional Properties) and
748 16C.07.04 (Wetland Functions and Rating). It is understood that optimal conditions do not
749 always exist due to degradation of the vegetative buffer before establishment of this title, or due
750 to colonization by non-native species. Such conditions still provide functional properties, though
751 at a lower level, depending on the difference from natural conditions.

752

753 **16C.02.425 Wetland**

754 "Wetland" or "wetlands" means that area inundated or saturated by surface water or groundwater
755 at a frequency and duration sufficient to support, and under normal circumstances does support, a

756 prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands
757 generally include swamps, marshes, bogs and similar areas. Wetlands do not include those
758 artificial wetlands intentionally created from non-wetland sites, including, but not limited to,
759 irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater
760 treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1,
761 1990, that were unintentionally created as a result of the construction of a road, street, or
762 highway. However, wetlands may include those artificial wetlands specifically intentionally
763 created from non-wetland areas to mitigate conversion of wetlands.
764

765 **16C.02.430 Wildlife**

766 "Wildlife" means all species of the animal kingdom whose members exist in Washington in a
767 wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile,
768 amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not
769 include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and
770 mice).
771

772 **16C.02.435 Wildlife Habitat**

773 "Wildlife habitat" means areas which, because of climate, soils, vegetation, relationship to water,
774 location and other physical properties, have been identified as of critical importance to
775 maintenance of wildlife species.
776

777 **16C.02.440 Works**

778 "Works" means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved
779 road, abutments, projection, excavation, channel rectification, or improvement attached to, or
780 affixed upon, the realty.
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Chapter 16C.03
APPLICATION AND REVIEW PROCEDURES

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817 **General Provisions**

818
819 **16C.03.01 Critical Area Development Authorization Required**

- 820 (1) No new development, construction or use shall occur within a designated critical area
821 without obtaining a development authorization in accordance with the provisions of this title,
822 except for those provided for in section 16C.03.05 (Minor Activities Allowed without a
823 Permit).
- 824 (2) With respect to application and review procedures, it is the intent of this title to streamline
825 and coordinate the authorization of critical area projects which require other local, state
826 and/or federal permits or authorizations. Any nonexempt development, construction or use
827 occurring within a designated critical area shall be processed according to the provisions of
828 this chapter and the Project Permit Administration Ordinance (YCC Title 16B).
- 829 (3) Approval of a development authorization under this title shall be in addition to, and not a
830 substitute for, any other development permit or authorization required by Yakima County.
831 Approval of a development authorization under this title shall not be interpreted as an
832 approval of any other permit or authorization required of a development, construction or use.
- 833 (4) Permits issued in accordance with this title shall run with the land.
- 834 (5) Coordination with Other Jurisdictions.
- 835 (a) Where all or a portion of a standard development project site is within a designated
836 critical area and the project is subject to another local, state or federal development
837 permit or authorization, then the Administrative Official shall determine whether the
838 provisions of this title can be processed in conjunction with, and as part of, that local,
839 state or federal development permit or authorization, or whether a separate critical area
840 development authorization application and review process is necessary. The decision of
841 the Administrative Official shall be based upon the following criteria:
- 842 i) The nature and scope of the project and the critical area features involved or
843 potentially impacted;
 - 844 ii) The purpose or objective of the permit or authorization and its relationship to
845 protection of the critical area;
 - 846 iii) The feasibility of coordinating the critical area development authorization with the
847 permitting agency;
 - 848 iv) The timing of the permit or authorization.
- 849 (b) When a determination has been made that provisions of this title can be handled through
850 another applicable development permit or authorization process, project proponents will
851 be required to provide any additional site plans, data and other information necessary as
852 part of that process to fully evaluate the critical area project and ensure its compliance
853 with this title. The Administrative Official's decision on the critical area development
854 authorization shall be coordinated to coincide with other permits and authorizations.

855
856 **Inquiry and Early Assistance**

857
858 **16C.03.02 Critical Area Identification Form and Critical Area Report Requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

917
918 **16C.03.03 Pre-application Conference**

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

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

947
948 **16C.03.04 Technical Assistance Conference**

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

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

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

971

972

Abbreviated Review Alternatives

973

16C.03.05 Minor Activities Allowed without a Permit.

974
975 (1) The following activities are included under 16C.01.05(1) (Applicability) and are allowed
976 without a permit:

977 (a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping
978 (including paths and trails) or gardens within a regulated critical area or its buffer.
979 Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting and
980 replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation
981 or indigenous native species to maintain the general condition and extent of such areas.
982 Excavation, filling, and construction of new landscaping features, such as concrete work,
983 berms and walls, are not covered in this provision and are subject to review;

984 (b) Minor maintenance and/or repair of lawfully established structures that do not involve
985 additional construction, earthwork or clearing. Examples include painting, trim or facing
986 replacement, re-roofing, etc. Cleaning canals, ditches, drains, wasteways etc. without
987 expanding their original configuration is not considered additional earthwork, as long as
988 the cleared materials are placed outside the stream corridor, wetlands, and buffers;

989 (c) Low impact activities such as hiking, canoeing, viewing, nature study, photography,
990 hunting, fishing, education or scientific research;

991 (d) Creation of unimproved private trails that do not cross streams or wetlands that are less
992 than two (2) feet wide and do not involve placement of fill or grubbing of vegetation;

993 (e) Planting of native vegetation;

994 (f) Noxious weed control outside vegetative buffers identified in Chapter 16C.06.16, except
995 for area wide vegetation removal/grubbing;

996 (g) Noxious weed control within vegetative buffers, if the criteria listed below are met.
997 Control methods not meeting these criteria may still apply for a development
998 authorization as applicable:

- 999 i) Hand removal/spraying of individual plants only;
1000 ii) No area wide vegetation removal/grubbing.
1001 (h) Agricultural and other accessory uses or structures that maintain the existing natural
1002 vegetation (rangeland, grazing, stock fences, outdoor recreation, etc.).

1003 **16C.03.10 Mitigation requirements**

- 1004 (1) All developments shall demonstrate that all reasonable efforts have been examined with the
1005 intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is
1006 proposed, such alteration shall be avoided, minimized, or compensated for in the following
1007 order of preference:
1008 (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
1009 (b) Minimizing impacts by limiting the degree or magnitude of the action and its
1010 implementation, by using appropriate technology, or by taking affirmative steps, such as
1011 project redesign, relocation, or timing, to avoid or reduce impacts;
1012 (c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
1013 (d) Reducing or eliminating the impact over time by preservation and maintenance
1014 operations during the life of the action;
1015 (e) Compensating for the impact by replacing, enhancing, or providing substitute resources
1016 or environments;
1017 (f) Monitoring the impact and taking appropriate corrective measures.
1018 (2) Mitigation for individual actions may include a combination of the above measures.
1019 (3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all
1020 adverse impacts to or from critical areas and buffers resulting from a development proposal
1021 or alteration shall be mitigated in accordance with an approved Mitigation Plan. Mitigation
1022 shall not be implemented until after approval of the Mitigation Plan.
1023 (4) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the
1024 functions and values of the critical area, and to prevent risk from a hazard posed by a critical
1025 area. When necessary, mitigation may be provided that is out-of-kind and/or off-site.
1026

1027 **Review Process**

1028
1029 **16C.03.11 Application Submittal**

- 1030 (1) Application for a development authorization under this title shall be made on forms provided
1031 by the Department. The application submittal shall include a site plan drawn to scale
1032 showing:
1033 (a) the actual shape and dimensions of the property site to be used;
1034 (b) existing and proposed structures;
1035 (c) excavation, fill, drainage facilities, topography, slope, and;
1036 (d) such other information as is needed to determine the nature and scope of the proposed
1037 development, including the maximum extent of the project site with respect to
1038 construction, excavation, equipment and material storage, and other project related work.
1039 (2) The site plan should also show the location of all critical areas, such as those identified in
1040 sections 16C.03.02 (Critical Areas Identification Form and Critical Areas Reports) and
1041 16C.03.17 (Critical Areas Report Requirements), include all required critical areas reports
1042 prepared in conformance with 16C.03.17, and include the permit information required either

1043 in YCC Title 16B (Project Permit Administration) or in chapter 16C.05.44 (Flood Hazard
 1044 Protection Administration), as appropriate.
 1045 (3) To be accepted as complete, a critical area development authorization application must
 1046 include all maps, drawings and other information or data specified by this title or requested
 1047 on the basis of the pre-application conference (16C.03.03), or technical assistance conference
 1048 (16C.03.04).

1049
 1050 **16C.03.12 Determination of Review Process**

1051 (1) The Administrative Official shall determine from the application submittal, and other
 1052 available information what type of permit or review is required under this title. The
 1053 Administrative Official shall make such determination as early in the application process as
 1054 is possible and shall inform the project applicant in writing of any application needs.
 1055 Available information used in this determination may include:
 1056 (a) critical areas identification form;
 1057 (b) pre-application conference information;
 1058 (c) technical assistance conference information.
 1059 (2) Specific information on when a permit or review is required, its review process type and
 1060 review criteria are found in the section for each permit or review. However, a brief
 1061 description of each type of permit or review is provided in Table 3-1 below. Some permits or
 1062 reviews are general and all projects will have a general review. Some permits are more
 1063 specialized and apply only in specific cases or situations. More than one (1) permit or review
 1064 may be needed for a project.
 1065
 1066

Table 3-1

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

1067
 1068
 1069

1070 **16C.03.13 Development Authorization – Review Procedure**

1071 Upon submittal and acceptance of a completed development authorization application, the
1072 Administrative Official shall process and review the application as follows, except that permits
1073 or reviews required for critical areas under chapter 16C.05 (Flood Hazard) shall be processed
1074 using the permit development standards, approval criteria and other provisions established in
1075 chapter 16C.05.

1076 (1) Development authorizations shall be processed consistent with review procedures provided
1077 in YCC Title 16B (Project Permit Administration), and with any specific processes
1078 requirements provided in 16C.03.20 through 16C.03.26 (specific permit descriptions),
1079 including but not limited to:

- 1080 (a) submittals;
- 1081 (b) completeness review;
- 1082 (c) notices;
- 1083 (d) hearings;
- 1084 (e) decisions; and,
- 1085 (f) appeals.

1086 (2) Development authorizations shall be reviewed for conformance with the applicable
1087 development standards provided in 16C.03.27 (General Critical Areas Protection Measures),
1088 and in chapters 16C.06 through 16C.09, except that:

1089 (a) For rangeland livestock grazing operations, the Administrative Official may waive
1090 compliance with development standards in Chapter 16C.06 (Fish and Wildlife Habitat
1091 and the Stream Corridor), 16C.07 (wetlands), 16C.08 (Geologically Hazardous Areas),
1092 and 16C.09 (CARA), except for those uses and activities listed in section 16C.06.10
1093 (Prohibited Uses). To qualify for this provision, a Resource Management Plan must be
1094 provided that has been prepared using all applicable US Department of Agriculture -
1095 National Resource Conservation Service best management practices designed to protect
1096 streams, wetlands, vegetative buffers, erosion hazards, and floodplains from grazing
1097 operations. An acceptable Resource Management Plan is deemed to consist of acceptable
1098 critical areas protection measures capable of dealing with impacts of grazing activities
1099 dispersed across large areas. This provision is not intended to apply to pasture grazing,
1100 hobby farms, or confinement feeding operations.

1101 (3) Decisions on a development authorization shall be consistent with section 16C.03.14
1102 (Authorization Decisions – Basis for Action), 16C.03.15 (Conditional Approval of
1103 Development Authorization) and with any specific decision criteria provided under the
1104 sections for each relevant permit type, as provided in 16C.03.20 through 16C.03.26 (specific
1105 permit descriptions).

1106

1107 **16C.03.14 Authorization Decisions – Basis for Action**

1108 The action on any development authorization under this title shall be based upon the following
1109 criteria:

1110 (1) Impact of the project to critical area features on the property or on abutting or adjacent
1111 properties;

1112 (2) Danger to life and property that would likely occur as a result of the project;

1113 (3) Compatibility of the project with the critical area features on, adjacent to, or near the
1114 property;

1115 (4) Conformance with the applicable development standards in this title;

- 1116 (5) Requirements of other applicable local, state or federal permits or authorizations, including
1117 compliance with flood hazard mitigation requirements of Chapters 16C.05.20 through
1118 16C.05.72;
- 1119 (6) Adequacy of the information provided by the applicant or available to the department;
- 1120 (7) Ability of the project to satisfy the purpose and intent of this title;
- 1121 (8) Based upon the project evaluation, the decision maker shall take one of the following actions:
- 1122 (a) Grant the development authorization;
- 1123 (b) Grant the development authorization with conditions, as provided in 16C.03.15
1124 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or
1125 adjacent to the project site;
- 1126 (c) Deny the development authorization.
- 1127 (9) The decision by the Administrative Official on the development authorization shall include
1128 written findings and conclusions stating the reasons upon which the decision is based.
1129

1130 **16C.03.15 Conditional Approval of Development Authorization**

1131 In granting any development authorization, the decision maker may impose conditions to:

- 1132 (1) Accomplish the purpose and intent of this title;
- 1133 (2) Eliminate or mitigate any identified specific or general negative impacts of the project on the
1134 critical area;
- 1135 (3) Restore important resource features that have been degraded or lost because of past or
1136 present activities on the project site;
- 1137 (4) Protect designated critical areas from damaging and incompatible development;
- 1138 (5) Ensure compliance with specific development standards in this title.
1139

1140 **16C.03.16 Fees and Charges**

1141 The board of county commissioners establishes the schedule of fees and charges listed in Yakima
1142 County Code, Title 20 (Yakima County Fee Schedule), for development authorizations,
1143 variances, appeals and other matters pertaining to this title.
1144

1145 **Critical Areas Reports**

1147 **16C.03.17 Critical Areas Report Requirements**

- 1148 (1) The Administrative Official may require a critical areas report, paid for by the applicant in
1149 accordance with YCC Title 16B.04, where determined necessary through the critical area
1150 identification form, technical assistance conference, site investigation, or other portion of the
1151 project review.
- 1152 (2) A qualified professional, as defined by this title, shall prepare the report utilizing best
1153 available science. The intent of these provisions is to require a reasonable level of technical
1154 study and analysis sufficient to protect critical areas. The analysis shall be commensurate
1155 with the value or sensitivity of a particular critical area and relative to the scale and potential
1156 impacts of the proposed activity.
- 1157 (3) The critical area report shall:
- 1158 (a) Demonstrate that the submitted proposal is consistent with the purposes and specific
1159 standards of this title;
- 1160 (b) Describe all relevant aspects of the development proposal; all critical areas adversely
1161 affected by the proposal including any geologic or flood hazards; all risks to critical

- 1162 areas, the site, and other public and private properties and facilities resulting from the
1163 proposal; and assess impacts on the critical area from activities and uses proposed; and
1164 (c) Identify proposed mitigation and protective measures as required by this title.
- 1165 (4) The critical areas report shall include information to address the Supplemental Report
1166 Requirements for Specific Critical Areas (16C.03.18).
- 1167 (5) The Administrative Official shall review the critical areas report for completeness and
1168 accuracy, and shall consider the recommendations and conclusions of the critical areas report
1169 to assist in making decisions on development authorizations and to resolve issues concerning
1170 critical areas jurisdiction, appropriate mitigation, and protective measures.
- 1171 (6) Critical areas reports shall generally be valid for a period of five (5) years, unless it can be
1172 demonstrated to the satisfaction of the Administrative Official that the previously prepared
1173 report is adequate for current analysis. Future land use applications may require preparation
1174 of new, amended, or supplemental critical area assessment reports. Reports prepared for
1175 nearby lands may be deemed acceptable by the Administrative Official, in whole or in part, if
1176 relevant to the current analysis and meeting the above standards. The Administrative Official
1177 may also require the preparation of a new critical area assessment report or a supplemental
1178 report when new information is found demonstrating that the initial assessment is in error. If
1179 the Administrative Official requires more information in the report, he/she shall make the
1180 request in writing to the applicant stating what additional information is needed and why.
- 1181 (7) The Administrative Official may reject or request revision of the critical areas report when
1182 the Administrative Official can demonstrate that the assessment is incomplete, or does not
1183 fully address the critical areas impacts involved.
- 1184 (8) To avoid duplication, the reporting requirements of this chapter shall be coordinated if more
1185 than one critical area report is required for a site or development proposal.
- 1186 (9) Applicants should provide reports and maps to the County in an electronic format that allows
1187 site data to be incorporated into the County critical areas database, provided that the County
1188 may waive this requirement for single-family developments. Applicants are encouraged to
1189 coordinate with the Administrative Official regarding electronic submittal guidelines. This
1190 requirement shall not be construed as a requirement to use specific computer software.
- 1191 (10) At a minimum, a critical areas report shall include the following information:
- 1192 (a) A site plan showing the proposed development footprint and clearing limits, and all
1193 relevant critical areas and buffers within and abutting the site, including but not limited to
1194 effects related to clearing, grading, noise, light/glare, modification of surface or
1195 subsurface flow, drilling, damming, draining, creating impervious surface, managing
1196 stormwater, releasing hazardous materials, and other alterations. Projects in frequently
1197 flooded areas must comply with the requirements of section 16C.05.20 through
1198 16C.05.72. For projects on or adjacent to geologically hazardous areas or areas subject to
1199 high floodwater depth or velocity the report shall identify the type of hazard and assess
1200 the associated risks posed by the development to critical areas, the site, and other public
1201 and private properties and facilities that are the result from the proposal, and assess
1202 impacts on the critical area from activities and uses proposed;
- 1203 (b) A written description of the critical areas and buffers on or abutting the site, including
1204 their size, type, classification or rating, condition, disturbance history, and functions and
1205 values. For projects on or adjacent to geologically hazardous areas or areas subject to
1206 high floodwater depth or velocity the description shall identify the type and
1207 characteristics of the hazard;

- 1208 (c) An analysis of potential adverse critical area impacts associated with the proposed
1209 activity. For geologically hazard areas, also assess the risks posed by the development to
1210 critical areas, the site, and other public and private properties and facilities that are the
1211 result from the proposal, and assess impacts on the critical area from activities and uses
1212 proposed;
- 1213 (d) An explanation of how critical area impacts or risks will be avoided and/or minimized,
1214 how proposed mitigation measures will prevent or minimize hazards, why the proposed
1215 activity requires a location on or access across a critical area, the on-site design
1216 alternatives, and why alternatives are not feasible;
- 1217 (e) When impacts cannot be avoided, the report shall include a plan describing mitigation to
1218 replace critical area functions and values altered as a result of the proposal, or to reduce
1219 flood or geologic hazards to critical areas, the site, and other public and private
1220 properties. For projects on or adjacent to geologically hazardous areas or areas subject to
1221 high floodwater depth or velocity the plan shall address mitigation for impacts to critical
1222 areas, the site, and other public and private properties and facilities that are the result
1223 from the proposal, and assess impacts on the critical area from activities and uses
1224 proposed;
- 1225 (f) The dates, names, and qualifications of the persons preparing the report and
1226 documentation of analysis methods including any fieldwork performed on the site; and
- 1227 (g) Additional reasonable information requested by the Administrative Official for the
1228 assessment of critical areas impacts or otherwise required by the subsequent articles of
1229 this title.
- 1230 (11) A critical area report may be supplemented by or composed, in whole or in part, of any
1231 reports or studies required by other laws and regulations or previously prepared for and
1232 applicable to the development proposal site, as approved by the Administrative Official.
- 1233 (12) The Administrative Official may limit the required geographic area of the critical area
1234 report as appropriate.
- 1235 (13) Compensatory Mitigation Plans - When compensatory mitigation, as described in section
1236 16C.03.10 (Mitigation Requirements) is required or proposed for wetland areas or stream
1237 channels, the applicant shall submit for approval by Yakima County a mitigation plan as part
1238 of the critical area report, which includes:
- 1239 (a) Environmental Goals and Objectives. The mitigation plan shall include a written report
1240 identifying environmental goals and objectives of the proposed compensation including:
- 1241 i) A description of the anticipated impacts to the critical areas, mitigating actions
1242 proposed, and the purposes of the compensation measures, including the site selection
1243 criteria, identification of compensation goals and objectives, identification of desired
1244 resource functions, dates for beginning and completion of site compensation
1245 construction activities, and an analysis of the likelihood of success of the
1246 compensation project. The goals and objectives shall be related to the functions and
1247 values of the impacted critical area.
- 1248 (b) A review of the best available science supporting the proposed mitigation;
- 1249 (c) A description of the report author's experience to date in restoring or creating the type of
1250 critical area proposed;
- 1251 (d) Performance Standards. The mitigation plan shall include measurable specific criteria for
1252 evaluating whether or not the goals and objectives of the mitigation project have been
1253 successfully attained;

- 1254 (e) Detailed Construction Documents. The mitigation documents shall include written
1255 specifications and plans describing the mitigation proposed, such as:
1256 i) The proposed construction sequence, timing, and duration;
1257 ii) Grading and excavation details;
1258 iii) Erosion and sediment control features;
1259 iv) A planting plan specifying plant species, quantities, locations, size, spacing, and
1260 density;
1261 v) Measures to protect and maintain plants until established, and;
1262 vi) Documents should include scale drawings showing necessary information to convey
1263 both existing and proposed topographic data, slope, elevations, plants and project
1264 limits.
- 1265 (f) Monitoring Program. The mitigation plan shall include a program for monitoring
1266 construction of the compensation project and for assessing a completed project. A
1267 protocol shall be included outlining the schedule for site monitoring (for example,
1268 monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the
1269 monitoring data will be evaluated to determine if the performance standards are being
1270 met. A monitoring report shall be submitted as needed to document milestones,
1271 successes, problems, and contingency actions of the compensation project. The
1272 compensation project shall be monitored for a period necessary to establish that
1273 performance standards have been met, but not for a period less than five (5) years.
- 1274 (g) Contingency Plan. The mitigation plan shall include identification of potential courses of
1275 action, and any corrective measures to be taken if monitoring or evaluation indicates
1276 project performance standards are not being met.
- 1277 (h) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary,
1278 to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring
1279 fulfillment of the compensation project, monitoring program, and any contingency
1280 measures shall be posted in accordance with section 16C.03.27(1) (Financial
1281 Guarantees).
- 1282 (14) Innovative Mitigation.
- 1283 (a) Yakima County encourages innovative mitigation projects that are based on the best
1284 available science. The mitigation plan shall be used to satisfy the requirements of this
1285 chapter and provide relief and/or deviation as appropriate from the specific standards and
1286 requirements thereof. Advance mitigation or mitigation banking are examples of
1287 alternative mitigation projects allowed under the provisions of this Section wherein one
1288 or more applicants, or an organization with demonstrated capability, may undertake a
1289 mitigation project together if it is demonstrated that all of the following circumstances
1290 exist:
- 1291 i) Creation or enhancement of a larger system of critical areas and open space is
1292 preferable to the preservation of many individual habitat areas;
1293 ii) The group demonstrates the organizational and fiscal capability to act cooperatively;
1294 iii) The group demonstrates that long-term management of the habitat area will be
1295 provided;
1296 iv) There is a clear potential for success of the proposed mitigation at the identified
1297 mitigation site;
1298 v) There is a clear likelihood for success of the proposed plan based on supporting
1299 scientific information and demonstrated experience in implementing similar plans;

- 1300 vi) The proposed project results in equal or greater protection and conservation of critical
1301 areas than would be achieved using parcel-by parcel regulations and/or traditional
1302 mitigation approaches;
- 1303 vii) The plan is consistent with the general purpose and intent of this chapter;
- 1304 viii) The plan shall contain relevant management strategies considered effective and
1305 within the scope of this chapter and shall document when, where, and how such
1306 strategies substitute for compliance with the specific standards herein; and
- 1307 ix) The plan shall contain clear and measurable standards for achieving compliance with
1308 the purposes of this chapter, a description of how such standards will be monitored
1309 and measured over the life of the plan, and a fully funded contingency plan if any
1310 element of the plan does not meet standards for compliance.
- 1311 (b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the
1312 required wetland replacement ratios.
- 1313 (c) Projects that propose compensatory wetland mitigation shall also use the standards in
1314 sections 16C.07.05 (Compensatory Mitigation Requirements). For those situations where
1315 a mitigation bank may provide an opportunity for mitigation, then the requirements in
1316 section 16C.07.06 (Wetland Mitigation Banks) shall apply.
- 1317

1318 **16C.03.18 Supplemental Report Requirements for Specific Critical Areas**

- 1319 (1) **Stream Corridors.** When a critical areas report is required for a stream corridor or
1320 hydrologically related critical area, it shall include the following:
- 1321 (a) A habitat and native vegetation conservation strategy that addresses methods to protect
1322 and enhance the functional properties listed in section 16C.06.05 (Functional Properties);
- 1323 (b) Where there is evidence that proposed construction lies within an immediate zone of
1324 potential channel migration, representing a future hazard to the construction, a hydrologic
1325 analysis report may be required. The report shall assume the conditions of the one-
1326 hundred-year flood, include on-site investigative findings, and consider historical
1327 meander characteristics in addition to other pertinent facts and data.
- 1328 (2) **Upland Wildlife** When a critical areas report is required for Upland Wildlife Habitat
1329 Conservation Areas, it shall include the following:
- 1330 (a) **Habitat Assessment:** A habitat assessment is an investigation of the project area to
1331 evaluate the presence or absence of such species, and areas with which such species have
1332 a primary association. The presence or absence assessment shall incorporate the time
1333 sensitive nature of species use. The landowner may submit an assessment prepared by the
1334 state or federal agency with jurisdiction over the species. This assessment is time sensitive
1335 and the assessment must be completed no more than 36 months prior to the date the critical
1336 areas application is deemed complete.
- 1337 (b) If the habitat assessment determines that such habitat area is present on site, a
1338 management plan is required that follows published federal, or state, management
1339 recommendations. The Administrative Official shall confer with the appropriate agency
1340 and consider their comments through the review process.
- 1341 (3) **Wetlands** When a critical areas report is required for Wetlands, it shall include the
1342 following:
- 1343 (a) The exact location of a wetland's boundary and wetland rating shall be determined
1344 through the performance of a field investigation by a qualified wetland professional
1345 applying the *Washington State Wetlands Identification and Delineation Manual* (Ecology

- 1346 Publication #96-94 - <http://www.ecy.wa.gov/pubs/9694.pdf>) as required by RCW
 1347 36.70A.175 (Wetlands to be delineated in accordance with manual), and the *Washington*
 1348 *State Wetland Rating System for Eastern Washington* (Ecology Publication # 04-06-15),
 1349 as amended;
- 1350 (b) All delineated wetlands and required buffers within two hundred (200) feet of the project
 1351 area shall be depicted on the site plan. For areas off-site of the project site, wetland
 1352 conditions within 200 feet of the project boundaries may be estimated using the best
 1353 available information. Best available information should include, but not be limited to
 1354 aerial photos, land based photos, soils maps, or topographic maps;
- 1355 (c) A critical area report for wetlands shall contain an analysis of the wetlands including the
 1356 following site- and proposal-related information:
- 1357 i) A statement specifying all assumptions made and relied upon;
- 1358 ii) Documentation of any fieldwork performed on the site, including field data sheets for
 1359 delineations, the wetland rating form, baseline hydrologic data, etc.;
- 1360 iii) A description of the methodologies used to conduct the wetland delineations, or
 1361 impact analyses including references;
- 1362 iv) Wetland category, including vegetative, faunal, and hydrologic characteristics;
- 1363 (d) For projects that will affect the wetland or it's buffer, provide the following:
- 1364 i) A habitat and native vegetation conservation strategy that addresses methods to
 1365 protect and enhance on-site habitat and wetland functions and values listed in section
 1366 16C.07.04(1) (Wetland Functions and Rating), and section 16C.06.05 (Functional
 1367 Properties);
- 1368 ii) Mitigation sequencing pursuant to section 16C.03.10 (Mitigation Requirements) to
 1369 avoid, minimize, and mitigate impacts. Mitigation shall result in no net loss of
 1370 wetland functions and values. Mitigation ratios may be necessary and should follow
 1371 the guidance provided in section 16C.07.05 (Compensatory Mitigation) of the
 1372 wetland chapter.
- 1373 (4) **Geologically Hazardous Areas** When a critical areas report is required for a Geologically
 1374 Hazardous Area, it shall include the following, provided that the Administrative Official may
 1375 determine that any portion of these requirements is unnecessary given the scope and/or scale
 1376 of the proposed development:
- 1377 (a) A description of the site features, including surface and subsurface geology. This may
 1378 include surface exploration data such as borings, drill holes, test pits, wells, geologic
 1379 reports, and other relevant reports or site investigations that may be useful in making
 1380 conclusions or recommendations about the site under investigation;
- 1381 (b) A description of the geologic processes and hazards affecting the property, including a
 1382 determination of the actual hazard types for any Suspected and Risk Unknown hazards
 1383 identified in the affirmative determination of hazard (16C.08.04);
- 1384 (c) A description of the vulnerability of the site to seismic and other geologic processes and
 1385 hazards;
- 1386 (d) A description of any potential hazards that could be created or exacerbated as a result of
 1387 site development;
- 1388 (e) For developments in or affecting landslide hazard areas the report shall also include:
- 1389 i) Assessments and conclusions regarding slope stability including the potential types of
 1390 landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip,
 1391 etc.) that may affect the site. The stability evaluation shall also consider dynamic

- 1392 earthquake loading, and shall use a minimum horizontal acceleration as established
1393 by the current version of the YCC Title 13 (Building Code);
1394 ii) An analysis of slope recession rate shall be presented in those cases where stability is
1395 impacted or influenced by stream meandering, or other forces acting on the toe of the
1396 slope;
1397 iii) Description of the run-out hazard of landslide debris to the proposed development
1398 that starts up-slope (whether part of the subject property or on a neighboring
1399 property) and/or the impacts of landslide run-out on down-slope properties and
1400 critical areas.

1401 **(5) Flood Hazards**

- 1402 (a) Prior to authorization of any major construction project within a floodplain which can be
1403 anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the
1404 base flood, an engineering report shall be prepared that establishes any new flood
1405 elevations that would result for the one-hundred-year flood frequency if the project were
1406 implemented.

1407 **(6) Critical Aquifer Recharge Areas**

1408 When a hydrogeological report is required for CARAs, it shall include the following:

- 1409 a) The report shall address the impact the proposed land use will have on both the quality
1410 and quantity of the water transmitted to the aquifer.
1411 b) The hydrogeologic report shall be prepared by a hydrogeologist licensed in the state of
1412 Washington.
1413 c) The report shall contain recommendations on appropriate BMPs (Best Management
1414 Practices) or mitigation to assure no significant degradation of groundwater quality.
1415

1416 **Permit Review Criteria**

1417
1418 **16C.03.20 Standard Development Permit**

- 1419 (1) **Classification Criteria** – Standard Development permits include any development not
1420 subject to RCW Chapter 90.58 (Shoreline Management Act).
1421 (2) **Process** Standard Development permits shall be processed as either a Type I or II permit at
1422 the judgment of the Administrative Official, in accordance with YCC Title 16B (Project
1423 Permit Administration). Applications that are of a significant size or scope shall be
1424 processed as a Type II review with public notice. Examples of such projects include those
1425 that typically require environmental review (SEPA), filling or excavating a stream channel or
1426 wetlands, involve large amounts of fill, require large amounts of parking, etc.
1427 (3) **Decision Criteria** – Decisions on Standard Development permits shall be based on the
1428 general decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for
1429 Action).
1430

1431 **16C.03.23 Adjustment**

- 1432 (1) **Classification Criteria** – For projects not required to be processed under RCW Chapter
1433 90.58 (Shoreline Management Act), the Administrative Official is authorized to
1434 administratively adjust the development standards specified herein. Existing structures,
1435 parcel size, property boundaries, and other constraints may preclude conformance with
1436 building setbacks, vegetative buffers, and other provisions of this chapter. Given such
1437 constraints, administrative adjustments may be authorized where the site plan and project

1438 design include measures which ensure the protection and performance of the functional
1439 properties identified in Section 16C.06.05 (Functional Properties). Adjustments from
1440 prohibited use limits are not allowed.

1441 (2) **Process** – Requests for an Adjustment permit shall be processed as a Type II permit, in
1442 accordance with YCC Title 16B (Project Permit Administration). Requests for adjustments
1443 of development standards shall be made in writing and shall specify the standard(s) for which
1444 an adjustment is sought and the reasons why the adjustment is sought.

1445 (3) **Decision Criteria** - Decisions on Adjustment permits shall be based on the general decision
1446 criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action) together
1447 with the criteria below.

1448 (a) A particular standard may be reduced or modified as long as the Administrative Official
1449 determines that the adjustment and/or reduction:

1450 i) is consistent with the purpose of this title;
1451 ii) is consistent with the intent of the standard; and,
1452 iii) will not result in degradation of the critical area.

1453 (b) The Administrative Official shall consider the following:

1454 i) The proximity and relationship of the project to any critical area and its impact on the
1455 critical area;
1456 ii) The functions and values that the critical area performs;
1457 iii) The overall intensity of the proposed use;
1458 iv) The presence of threatened, endangered, or sensitive species;
1459 v) The site's susceptibility to severe erosion;
1460 vi) The use of a buffer averaging or buffer enhancement plan by the applicant which uses
1461 native vegetation or other measures which will enhance the functions and values of
1462 the Hydrologically Related Critical Area (HRCA).

1463 (c) When granting an adjustment to the provisions of this chapter, the Administrative
1464 Official may require alternative measures to be taken to protect the function and value of
1465 the HRCA. These alternative measures may include, but are not limited to, the following:

1466 i) Restoration of impaired channels and banks to conditions which support natural
1467 stream flows, fish habitat, and other values;
1468 ii) Restoration, enhancement, and preservation of soil characteristics and the quantity
1469 and variety of native vegetation;
1470 iii) Provisions for erosion control and for the reduction and filtration of stormwater
1471 runoff to moderate the effects of the project on the stream channel and the available
1472 area of vegetation separating the project from the stream channel;
1473 iv) Removal or alteration of existing manmade facilities associated with stream channels,
1474 or drainage ways which improve stream-flow characteristics or improve the
1475 movement or exchange of surface waters or floodwaters;
1476 v) Replacement of lost wetlands or other stream corridor features on an acre-for-acre
1477 and equivalent value or at a higher acre and/or value basis;
1478 vi) Conservation easements for key portions of stream corridor property and/or their
1479 inclusion within public or private conservation programs which provide for their
1480 long-term preservation and maintenance.
1481 vii) Vegetative Buffer Averaging. Vegetative buffers may be modified by averaging
1482 buffer widths. Buffer averaging is preferred in the use of mitigation sequencing
1483 (16C.03.10 Mitigation Requirements), over a reduction in the buffer standards.

- 1484 (d) The following criteria must be met to reduce the vegetative buffers found in tables 6-1
1485 and 6-2.
1486 i) There is a hardship related to maintenance of the buffer width that results from parcel
1487 boundaries or existing on-site development.
1488 ii) The buffer width shall be the maximum possible while meeting the minimum needs
1489 of the proposal.
1490 iii) The development will not result in a reduction of habitat functions and values.
1491 iv) The buffer reduction will not adversely affect salmonid habitat.
1492

1493 **16C.03.24 Reasonable Use Exception**

- 1494 (1) **Classification Criteria** - If the application of this title would deny all reasonable economic
1495 use of the subject property, the property owner may apply for a Reasonable Use Exception
1496 pursuant to this Section.
1497 (2) **Process** - A Reasonable Use Exception shall be processed as a Type III review with a public
1498 hearing in accordance with YCC Title 16B.03 (Classification by Project Permit Type).
1499 (3) **Decision Criteria** - Decisions on the Reasonable Use request shall be based on the general
1500 decision criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action),
1501 together with the criteria below. The Reasonable Use request shall be accompanied by the
1502 evidence necessary to demonstrate conformance with the criteria below. Failure to satisfy
1503 any one of the criteria shall result in denial of the request. The burden of proof shall be on
1504 the applicant to bring forth evidence in support of the application and to provide sufficient
1505 information on which any decision has to be made on the application.
1506 (a) The application of this title would deny all reasonable use of the property; provided that
1507 the inability of the applicant to derive reasonable use of the property is not the result of
1508 actions by the applicant;
1509 (b) No other reasonable use of the property has less impact on the critical area;
1510 (c) Any alteration is the minimum necessary to allow for reasonable use of the property.
1511

1512 **16C.03.25 Minor Revisions to Approved Uses or Developments**

- 1513 (1) **Classification Criteria** – Minor revisions to a project that has been approved under a permit
1514 are allowed in certain circumstances.
1515 (a) Changes that are not substantive are not required to obtain a revision and may be allowed
1516 as activities to implement the original permit. Examples of such include minor changes
1517 in facility orientation or location, minor changes in structural design that does not change
1518 the height or increase ground floor area, and minor accessory structures (such as
1519 equipment covers or small sheds near the main structure, etc.).
1520 (b) Substantive changes are those that materially alter the project in a manner that relates to
1521 its conformance with the permit requirements. Such changes may be approved as a
1522 minor revision, if the Administrative Official determines that the proposed revision and
1523 all previous revisions are within the scope and intent of the original permit, and meet the
1524 criteria listed below. Changes not able to meet the criteria must obtain a new permit.
1525 i) No additional over water construction will be involved, except that pier, dock, or float
1526 construction may be increased by five hundred square feet or ten percent from the
1527 provisions of the original permit, whichever is less;
1528 ii) Lot coverage and height may be increased a maximum of ten percent from the
1529 provisions of the original permit: PROVIDED, that revisions involving new

1530 structures not shown on the original site plan shall require a new permit, and:
1531 PROVIDED FURTHER, that any revisions authorized under this subsection shall not
1532 exceed height, lot coverage, setback or any other requirements of these regulations;
1533 iii) Landscaping may be added to a project without necessitating an application for a new
1534 permit: PROVIDED, that the landscaping is consistent with conditions (if any)
1535 attached to the original permit and is consistent with this title for the area in which the
1536 project is located;
1537 iv) The use authorized pursuant to the original permit is not changed;
1538 v) No additional significant adverse environmental impact will be caused by the project
1539 revision.

1540 (2) **Process** – Minor revisions to existing permits shall be processed as a Type I review, as
1541 provided under YCC Title 16B (Project Permit Administration). Parties of record to the
1542 original permit shall be notified of the revision, though a comment period is not required.

1543 (3) **Decision Criteria** - Decisions on permit revisions shall be based on the general decision
1544 criteria found in section 16C.03.14 (Authorization Decisions – Basis for Action).
1545

1546 **16C.03.26 Non-Conforming Uses and Facilities**

1547 Non-Conforming Uses and Facilities are classified as either conforming uses with non-
1548 conforming structures or areas, or as non-conforming uses, as described in subsection 1 below.
1549 Both types have different review processes and decision criteria, as provided below in
1550 subsections 2 and 3.

1551 (1) **Classification Criteria** – There may be situations that do not conform to the standards or
1552 regulations of this title. These situations are characterized as:

1553 (a) **Non-conforming Uses.** Uses of a structure or land that were lawfully established at the
1554 time of their initiation but are currently prohibited by this title are non-conforming uses,
1555 and may utilize structures or land areas that are also non-conforming. A non-conforming
1556 use that is discontinued for any reason for more than one year shall have a presumption of
1557 intent to abandon, shall not be re-established, and shall lose its non-conforming status,
1558 unless an Adjustment (16C.03.23) is obtained to extend the length of time, based on
1559 documentation showing that an intent to abandon did not exist during the period of
1560 discontinuance. An Adjustment request may be submitted after the deadline has passed.
1561 In the case of destruction or damage where reconstruction costs exceed 50% of the
1562 assessed value, the structure shall not be rebuilt;

1563 (b) **Conforming Uses with Non-conforming Structures or Areas** are structures or areas for
1564 conforming uses that were lawfully established at the time of their initiation, but currently
1565 do not conform to the bulk, dimensional or other development standards of this title.
1566 Structures or areas in locations approved under a permit shall not be considered non-
1567 conforming. Non-conforming outdoor areas that have not been used or maintained for 5
1568 consecutive years shall lose their non-conforming status and may not be reestablished;

1569 (c) Any non-conforming structure, area, or use may be maintained with ordinary care
1570 according to the provisions in 16C.01.05 (Applicability) and 16C.03.05 (Minor Activities
1571 Allowed without a Permit), and do not require additional review under these non-
1572 conforming provisions.

1573 (2) **Process**

- 1574 (a) Alterations to conforming uses with non-conforming structures or areas shall be allowed
1575 under the following process requirements with the understanding that other permits or
1576 reviews may also be required under this title:
1577 i) Those that do not increase the existing non-conformity and otherwise conform to all
1578 other provisions of this title are allowed without additional review under these non-
1579 conforming provisions;
1580 ii) Those that increase the non-conformity, including establishing additional square
1581 footage within a buffer, are allowed without additional review under these non-
1582 conforming provisions; however, an Adjustment must be obtained for the increased
1583 non-conformity;
1584 iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value
1585 shall be processed as provided in subsections i) and ii) above;
1586 iv) A nonconforming structure which is moved any distance shall be processed as
1587 provided in subsections 1 and 2 above;
1588 v) Reconstruction or repair of structures destroyed or damaged 75% or more of the
1589 assessed value of the structure (not the whole property), including that resulting from
1590 neglect of maintenance or repair, shall be processed under these non-conforming
1591 provisions as a Type II review under YCC Title 16B (Project Permit Administration).

1592 **(b) Alterations to Non-Conforming Uses**

- 1593 i) Those involving expansion or alteration within an existing structure, but do not
1594 include alterations to outdoor areas, or expansions of the building's height or square
1595 footage are allowed without additional review under these non-conforming
1596 provisions.
1597 ii) Alterations to non-conforming uses, including their non-conforming structures or
1598 areas that do not qualify under paragraph i) above, shall be processed under these
1599 non-conforming provisions as a Type II review, as provided under YCC Title 16B
1600 (Project Permit Administration).

1601 **(3) Decision Criteria**

- 1602 (a) Decisions on projects that require review under the non-conforming provisions, as
1603 identified under subsection (1) above shall be based on the general decision criteria found
1604 in section 16C.03.14 (Authorization Decisions – Basis for Action) together with the
1605 criteria below.
1606 (b) Applications for conforming uses with non-conforming structures or areas that are
1607 subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that
1608 the project meets all of the following criteria:
1609 i) Using the original location will not place the structure or people in danger of a
1610 hazard;
1611 ii) The previous structure and any structural shore modification used to protect the
1612 structure did not increase hazards or damage to other properties;
1613 iii) The previous structure and any shore modification used to protect the structure did
1614 not cause significant impacts to the functions and values of the critical area.
1615 (c) Decisions on non-conforming uses:
1616 i) A non-conforming use may not be altered or expanded in any manner that would
1617 bring that use into greater non-conformity.
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1621 **16C.03.27 General Critical Areas Protective Measures**

1622 The standards below apply to all permits and reviews performed under this title.

1623 (1) Financial guarantees to ensure mitigation, maintenance, and monitoring.

1624 (a) When mitigation required pursuant to a development proposal is not completed prior to
1625 the Yakima County’s final permit approval, such as final plat approval or final building
1626 inspection, the Administrative Official may require the applicant to post a financial
1627 guarantee to ensure that the work will be completed. If the development proposal is
1628 subject to compensatory mitigation for wetlands and streams, the applicant must post a
1629 financial guarantee to ensure mitigation is fully functional. Where financial guarantees
1630 are required by other state or federal agencies for specific mitigation features, additional
1631 financial guarantees for those features are not required under this provision.

1632 (b) The financial guarantee shall be in the amount of one hundred and twenty-five percent
1633 (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of
1634 restoring the functions and values of the critical area that are at risk.

1635 (c) The financial guarantee may be in the form of a surety bond, performance bond,
1636 assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable
1637 financial institution, or other form acceptable to the Administrative Official, with terms
1638 and conditions acceptable to the Yakima County attorney.

1639 (d) The financial guarantee shall remain in effect until the Administrative Official
1640 determines, in writing, that the standards bonded for have been met. Financial guarantees
1641 for wetland or stream compensatory mitigation shall be held for a minimum of five (5)
1642 years after completion of the work to ensure that the required mitigation has been fully
1643 implemented and demonstrated to function, and may be held for longer periods when
1644 necessary.

1645 (e) Public development proposals shall be relieved from having to comply with the bonding
1646 requirements of this Section if public funds have previously been committed for
1647 mitigation, maintenance, monitoring, or restoration.

1648 (f) Any failure to satisfy critical area requirements established by law or condition, including
1649 but not limited to the failure to provide a monitoring report within thirty (30) days after it
1650 is due or comply with other provisions of an approved mitigation plan, shall constitute a
1651 default, and the Administrative Official may demand payment of any financial guarantees
1652 or require other action authorized by the Yakima County code or any other law.

1653 (g) Any funds recovered pursuant to this Section shall be used to complete the required
1654 mitigation. Such funds shall not be deposited in the County General Fund, but rather
1655 provided with a separate account. The County will use such funds to arrange for
1656 completion of the project or mitigation, and follow-up corrective actions.

1657 (h) Depletion, failure, or collection of financial guarantees shall not discharge the obligation
1658 of an applicant or violator to complete required mitigation, maintenance, monitoring, or
1659 restoration.

1660 (2) Declarative Covenants

1661 (a) When a development is authorized by a critical areas permit or review, a declarative
1662 covenant shall, unless determined not to be necessary by the Administrative Official, be
1663 filed with the Yakima County Auditor to inform future owners of the existence of a
1664 critical areas decision that runs with the land and contains limits relating to critical areas
1665 on the property. The declarative covenant shall read substantially as follows:
1666

1667 “This declarative covenant is intended to reduce the incidence of unintentional
1668 violation of the Critical Areas Ordinance. Please be informed about your property
1669 and the laws that apply to it.
1670

1671 This declarative covenant is provided by Yakima County to the current and future
1672 owners of the property described as [enter property description] to inform them
1673 that, at the time of this notice, [enter Critical Areas present] existed within or
1674 adjacent to the property which are protected and regulated by the Yakima County
1675 Critical Areas Ordinance (YCC Title 16C). Development has taken place on the
1676 property under permit or review number [enter permit file number], which
1677 includes requirements that run with the land. Current and future owners should
1678 obtain copies of the permit and also inform themselves about the critical areas that
1679 exist on the property.
1680

1681 This declarative covenant may be removed or modified if critical areas conditions
1682 change, or if the permit is no longer applicable. Contact the Yakima County
1683 Public Services for assistance in doing so.”
1684

- 1685 (b) The declarative covenant shall not be required for a development proposal by a public
1686 agency or public or private utility:
1687 i) Within a recorded easement or right-of-way;
1688 ii) Where the agency or utility has been adjudicated the right to an easement or right-of-
1689 way; or
1690 iii) On the site of a permanent public facility.

- 1691 (c) The applicant shall submit proof that the declarative covenant has been filed for public
1692 record before the Administrative Official approves any development proposal for the
1693 property or, in the case of subdivisions, short subdivisions, planned unit developments,
1694 and binding site plans, at or before recording.

1695 (3) Subdivision Standards - The following standards apply to all permits or reviews under the
1696 Subdivision Ordinance (YCC Title 14) that contain critical areas:

- 1697 (a) All subdivisions that contain critical areas shall be eligible for density bonuses or other
1698 development incentives, as provided in the Subdivision Ordinance (YCC Title 14) and
1699 Zoning Ordinances (YCC Titles 15 and 15A);

- 1700 (b) Critical areas shall be actively protected through the following:
1701 i) Roads and utilities for the subdivision shall avoid critical areas and their buffers, as
1702 much as possible;
1703 ii) When Geologically Hazardous Areas (excluding Erosion, Over steepened Slopes of
1704 Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway,
1705 Channel Migration Zone (CMZ), , Streams, Wetlands and/or Vegetative Buffers fall
1706 within the boundary of a subdivision:

- 1707 (1) Said critical areas shall be protected by placing them entirely within a separate
1708 critical area tract, or by including them entirely within one of the developable
1709 parcels. Other options, such as conservation easements and building envelopes
1710 may be deemed by the Administrative Official as meeting this provision when
1711 special circumstances obstruct the viability of this provision;

- 1712 (2) For those new lots that do contain said critical areas, useable building envelopes
1713 (5,000 square feet or more for residential uses) shall be provided on the plat that
1714 lie outside said critical areas.
- 1715 iii) New lots partially within the floodplain shall provide a usable building envelope
1716 (5,000 square feet or more for residential uses) outside the floodplain;
- 1717 iv) New lots entirely within the floodplain shall be at least one (1) acre in area;
- 1718 v) For new lots containing , streams, wetlands, and/or vegetative buffers, outdoor use
1719 envelopes (such as lawns, gardens, play areas, gazebos, etc.) shall be provided on the
1720 plat that lie outside said critical areas;
- 1721 vi) Degraded vegetative buffers shall be restored, or provided with protection measures
1722 that will allow them to recover;
- 1723 vii) Floodplains and critical areas shall be depicted on preliminary subdivision plats and
1724 relevant information about them disclosed on the final plat.
- 1725
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Chapter 16C.04
ENFORCEMENT AND PENALTIES

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Sections:

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

16C.04.01 Enforcement Responsibilities Generally

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

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

It shall be the duty of the Chief Building Official or his designee to enforce the provisions of Chapter 16C.05 through 16C.05.72. Whenever any development is found to be in violation of said chapters or a permit issued pursuant to said chapters, the Chief Building Official may order any work on such development stopped by serving written notice on any persons engaged in the doing or causing such development or substantial development to be done. Any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

16C.04.03 Penalties

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

1773 or ordered abated in a civil proceeding for injunction or for abatement. For purposes of
1774 abatement actions, such violations are declared to be public nuisances. Any person, firm, or
1775 corporation violating the provisions of this title shall be liable for all costs of such
1776 proceedings, including reasonable attorney's fees and expenses of abatement. The provisions
1777 of this subsection are in addition to any other remedies available at law or equity.
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**Chapter 16C.05
FLOOD HAZARD AREAS**

16C.05.20 FLOOD HAZARD AREAS – GENERAL PROVISIONS

Sections:

- 16C.05.20.010 Flood Hazard Areas Established
- 16C.05.20.030 Principles
- 16C.05.20.050 Applicability
- 16C.05.20.060 Exemptions
- 16C.05.20.070 Interpretations
- 16C.05.20.080 Compliance
- 16C.05.20.090 Warning and Disclaimer of Liability

16C.05.20.010 Flood Hazard Areas Established

The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA), in a scientific and engineering report entitled "Flood Insurance Study for the Unincorporated Areas of Yakima County," dated March 2, 1998, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps, and any amendments which may thereafter be made by the Federal Emergency Management Agency, are adopted by reference and declared to be part of Chapters 16C.05.20 through 16C.05.72 and are established as flood hazard areas. The Flood Insurance Study and maps are on file at the Yakima County Courthouse Building, Yakima, Washington.

16C.05.20.030 Principles

- (1) Recognizing the right and need of the river channel to periodically carry more than the normal flow of water and desiring to minimize loss of life and property, Chapters 16C.05.20 through 16C.05.72 restrict uses and regulate structures to those that are consistent with the degree of flood hazard.
- (2) In advancing the above principals, the intent of Chapters 16C.05.20 through 16C.05.72 and their application is:
 - (a) To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
 - (b) To meet the minimum requirement of the National Flood Insurance program;
 - (c) To implement state and federal flood protection programs.

16C.05.20.050 Applicability

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

- (1) The provisions of Chapters 16C.05.20 through 16C.05.72 shall apply to any development proposed in a special flood hazard area,
- (2) Flood hazard permits shall be approved by Yakima County. County approvals shall only be granted when in accordance with Chapters 16C.05.20 through 16C.05.72 and other applicable local, state and federal regulations.

- 1824 (3) Topographic, engineering and construction information necessary to evaluate the proposed
1825 project shall be submitted to the department for approval.
1826 (4) The granting of a permit for any development or use shall not constitute a representation,
1827 guarantee or warranty of any kind or nature by Yakima County, or any official or employee
1828 thereof, of the practicality or safety of any structure or use proposed and shall create no
1829 liability upon or cause of action against such public body, official or employee for any
1830 damage that may result thereto.

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1832 **16C.05.20.060 Exemptions**

1833 The following uses and activities are exempt from the provisions of Chapters 16C.05.20 through
1834 16C.05.72:

- 1835 (1) The alteration or substantial improvement of any structure listed on the National Register of
1836 Historic Places or a state inventory of historic places;
1837 (2) The installation and maintenance of aboveground utility transmission lines and poles;
1838 (3) Private driveways, fences and other accessory activities and/or uses necessary for agricultural
1839 uses which the building official determines will not unduly decrease flood storage or
1840 capacity, significantly restrict floodwaters, create a substantial impoundment of debris
1841 carried by floodwaters, and will resist flotation and collapse;
1842 (4) Construction and practices normal or necessary for agricultural uses. The construction of an
1843 accessory barn or similar agricultural structure, designed to have a low flood-damage
1844 potential, not involving substantial cutting, filling, or watercourse modification, is subject to
1845 Section 16C.05.28.020(3)(a through e). (Ref. IRC 323)

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1847 **16C.05.20.070 Interpretations**

- 1848 (1) In the interpretation and application of Chapters 16C.05.20 through 16C.05.72, the provisions
1849 shall be considered as minimum requirements, shall be liberally construed in favor of
1850 Yakima County, and deemed neither to limit or repeal any other powers granted under state
1851 statute. Its provisions shall be applied in addition to and as a supplement to provisions of the
1852 Yakima County Codes (YCC), Title 13, Building and Construction, YCC Title 14
1853 Subdivision and (YCC Title 15 and 15A) Zoning Ordinances, and the Shoreline
1854 Master Program (YCC Title 16D). Chapters 16C.05.20 through 16C.05.72 are not intended
1855 to repeal, abrogate or impair any existing easements, covenants, or deed restrictions.
1856 However, where these chapters and other ordinances, easements, covenants or deed
1857 restrictions conflict or overlap, whichever imposes the more stringent requirement shall
1858 prevail.
1859 (2) In an interpretation as to an exact location of the boundaries of the special flood hazard areas
1860 (i.e., conflict between a mapped boundary and actual field conditions), the person contesting
1861 the location of the boundary shall be given a reasonable opportunity to appeal the
1862 interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of
1863 the rules and regulations of the National Flood Insurance Program (44 CFR 59, etc.) (Ref.
1864 IBC 104.1).

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1866 **16C.05.20.080 Compliance**

1867 No structure or land shall hereafter be used, constructed, located, extended, converted or altered
1868 without full compliance with the terms of Chapters 16C.05.20 through 16C.05.72 and other
1869 applicable regulations.

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16C.05.20.090 Warning and Disclaimer of Liability

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

16C.05.28 FLOOD HAZARD PROTECTION STANDARDS

Sections:

- 16C.05.28.010 General Standards
- 16C.05.28.020 Specific Standards

16C.05.28.010 General Standards

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

(1) Anchoring and Construction Techniques.

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

(2) Utilities.

1916 (a) All new and replacement water supply systems and sanitary sewage systems shall be
1917 designed to minimize or eliminate infiltration of floodwaters into the systems and
1918 discharge from the systems into floodwaters; and on-site waste disposal systems shall be
1919 located to avoid impairment to them or contamination from them during flooding.

1920 (3) Subdivision Proposals.

1921 Subdivision proposals shall:

1922 (a) Be consistent with the need to minimize flood damage;

1923 (b) Have roadways, public utilities and other facilities such as sewer, gas, electrical, and
1924 water systems located and constructed to minimize flood damage;

1925 (c) Have adequate drainage provided to reduce exposure to flood damage; and

1926 (d) Include base flood elevation data.

1927 (4) Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of
1928 any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a
1929 watercourse in riverine situations, the department shall notify adjacent communities, the
1930 Department of Ecology and FEMA of the proposed development.

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1932 **16C.05.28.020 Specific Standards**

1933 In all special flood hazard areas where base elevation data has been provided as set forth in
1934 Section 16C.05.20.010, the following regulations shall apply, in addition to the general
1935 regulations of Section 16C.05.28.010:

1936 (1) Residential Construction. (ref. IRC323.2)

1937 (a) New construction and substantial improvement of any residential structure shall have the
1938 lowest floor, including basement, elevated at a minimum to or above the base flood
1939 elevation.

1940 (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or
1941 shall be designed to automatically equalize hydrostatic flood forces on exterior walls by
1942 allowing for the entry and exit of floodwaters. Designs for meeting this requirement must
1943 either be certified by a registered professional engineer or architect or must meet or
1944 exceed the following minimum criteria:

1945 (i) A minimum of two openings having a total net area of not less than one square inch
1946 for every square foot of enclosed area subject to flooding shall be provided.

1947 (ii) The bottom of all openings shall be no higher than one foot above grade.

1948 (iii) Openings may be equipped with screens, louvers, or other coverings or devices,
1949 provided that they permit the automatic entry and exit of floodwaters.

1950 (c) Residential construction within one hundred feet of a floodway or the ordinary high water
1951 mark, if no floodway has been established, shall also meet the requirements of Section
1952 16C.05.28.010(a)(3).

1953 (2) Nonresidential Construction. New construction and substantial improvement of any
1954 commercial, industrial or other nonresidential structure, and any addition to an existing
1955 floodproofed structure that would extend beyond the existing floodproofing, shall either have
1956 the lowest floor, including basement, elevated a minimum of one foot above the base flood
1957 elevation; or, together with attendant utility and sanitary facilities, shall:

1958 (a) Be floodproofed so that below an elevation one foot above base flood level the structure
1959 is watertight, with walls substantially impermeable to the passage of water; and

1960 (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and
1961 effects of buoyancy;

- 1962 (c) Be certified by a registered professional engineer or architect that the design and method
1963 of construction are in accordance with accepted standards of practice for meeting
1964 provisions of this subsection, based on their development and/or review of the structural
1965 design, specifications and plans. Such certifications shall be provided to the building
1966 official;
- 1967 (d) Nonresidential structures that are elevated, not floodproofed, must meet the same
1968 standards for space below the lowest floor as described in Section 16C.05.28.020(1)(B)
1969 above;
- 1970 (e) Meet the special standards for structures set forth in Section 16C.05.28.010(a)(3) above if
1971 within one hundred feet of a floodway or within one hundred feet of the ordinary high
1972 water mark and no floodway has been established;
- 1973 (f) Applicants floodproofing nonresidential buildings shall be notified that flood insurance
1974 premiums will be based on rates that are one foot below the floodproofed level (e.g., a
1975 building constructed to the base flood level will be rated as one foot below the level).
1976 Flood proofing the building an additional foot will reduce insurance premiums
1977 significantly. (Ref. IBC 1612.5)
- 1978 (3) Agricultural Construction. New construction and substantial improvement of any agricultural
1979 structure shall either have the lowest floor, including basement, elevated at a minimum to or
1980 above the base flood elevation; or meet the floodproofing requirements of subsection (2) of
1981 this section. Agricultural construction or other accessory structures that constitute a minimal
1982 investment and comply with the floodway encroachment standards may be exempt from the
1983 floodproofing and elevation requirements of subsection (2) above when such structures,
1984 together with attendant utility sanitary facilities:
- 1985 (a) Have a low potential for structural flood damage;
- 1986 (b) Are designed and oriented to allow the free passage of floodwaters through the structure
1987 in a manner affording minimum flood damage; and
- 1988 (c) Ensure that all electrical and mechanical equipment subject to floodwater damage and
1989 permanently affixed to the structure be elevated a minimum of one foot above the base
1990 flood elevation or higher, or floodproofed;
- 1991 (d) Are constructed and placed on the building site so as to offer the minimum resistance to
1992 the flow of floodwaters; and
- 1993 (e) Will not be used for human habitation.
1994 All such structures shall be anchored to resist flotation, collapse, and lateral movement,
1995 and that only flood resistant materials be used for elements of these buildings below the
1996 base flood elevation.
- 1997 (4) Manufactured Homes.
- 1998 (a) Manufactured homes shall be anchored in accordance with Section 16C.05.28.010(a)(2),
1999 shall have the lowest floor elevated to or above the base flood elevation, and shall be
2000 securely anchored to an adequately anchored foundation system to resist flotation,
2001 collapse and lateral movement in accordance with Section 16C.05.28.010(a)(2).
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2008 **16C.05.32 FLOODWAY FRINGE USES**

2009 Sections:

2010 16C.05.32.010 Permitted Uses

2011 16C.05.32.020 Prohibited Uses

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2013 **16C.05.32.010 Permitted Uses**

2014 The following uses are permitted in the floodway fringe areas:

2015 (1) Any use permitted in the zoning district in accordance with YCC Title 15 or 15A of the
2016 Yakima County Code, unless prohibited by Section 16C.05.32.020.

2017 (2) Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with
2018 YCC Title 15 and where not otherwise inconsistent with Chapters 16C.05.20 through
2019 16C.05.72; except that when the primary purpose of such a transmission line is to transfer
2020 bulk products or energy through a floodway fringe or special flood hazard area, such
2021 transmission line shall conform to the following:

2022 (a) Electric transmission lines shall cross floodway fringe and special flood hazard areas by
2023 the most direct route feasible. When support towers must be located within floodway
2024 fringe or special flood hazard areas, they shall be placed to avoid high floodwater
2025 velocity and/or depth areas, and shall be adequately floodproofed.

2026 (b) Buried utility transmission lines transporting hazardous materials, including but not
2027 limited to crude and refined petroleum products and natural gas, shall be buried a
2028 minimum of four feet. Such burial depth shall be maintained within the floodway fringe
2029 or special flood hazard area to the maximum extent of potential channel migration as
2030 determined by hydrologic analyses. All such hydrologic analyses shall conform to
2031 requirements of Section 16C.05.36.010(2)(c).

2032 (c) Beyond the maximum extent of potential channel migration, utility transmission lines
2033 transporting hazardous and nonhazardous materials shall be buried below existing natural
2034 and artificial drainage features. Burial depth in all other agricultural and nonagricultural
2035 floodway fringe or special flood hazard areas shall be determined on the basis of accepted
2036 engineering practice and in consideration of soil conditions and the need to avoid conflict
2037 with agricultural tillage.

2038 (d) Aboveground utility transmission lines, not including electric transmission lines, shall
2039 only be allowed for the transportation of nonhazardous materials. In such cases,
2040 applicants must demonstrate that line placement will have no appreciable effect upon
2041 flood depth, velocity or passage. Such lines shall be adequately protected from flood
2042 damage.

2043 (e) Aboveground utility transmission line appurtenant structures, including valves, pumping
2044 stations or other control facilities, shall not be permitted in floodway fringe or special
2045 flood hazard areas except where no other alternative is available, or in the event a
2046 floodway fringe or special flood hazard location is environmentally preferable. In such
2047 instances, aboveground structures shall be located so that no appreciable effect upon
2048 flood depth, velocity or passage is created, and shall be adequately floodproofed.

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2050 **16C.05.32.020 Prohibited Uses**

2051 The following uses shall be prohibited in floodway fringe areas:

2052 (1) New manufactured home parks and the expansion of manufactured home/parks.

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16C.05.36 FLOODWAY USES

Sections:

- 16C.05.36.010 Permitted Uses
- 16C.05.36.020 Prohibited Uses

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

- (1) Surface mining, provided that the applicant can provide clear evidence that such uses will not divert flood flows causing channel-shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of Title 15 and the Yakima County Shoreline Management Master Program Regulations (WAC-173-19-470).
- (2) Utility transmission lines, unless otherwise prohibited by this division; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:
 - (a) All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways,
 - (b) Electric transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed,
 - (c) Buried utility transmission lines transporting hazardous and nonhazardous materials, including but not limited to crude and refined petroleum products and natural gas, water and sewage, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by Yakima County, shall assume the conditions of a one-hundred-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the Yakima County Shoreline Management Master Program Regulations,
 - (d) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all agricultural areas requiring or potentially requiring subsurface drainage shall be a minimum of six feet as measured from ground surface to the top of the transmission line, or at other such depth as deemed

- 2100 necessary by on-site investigations performed by a qualified soils expert familiar with
2101 Yakima County soils. Burial depth in all other agricultural and nonagricultural floodway
2102 areas shall be determined on the basis of accepted engineering practice and in
2103 consideration of soil conditions and the need to avoid conflict with agricultural tillage,
2104 (e) Aboveground utility transmission lines, not including electric transmission lines, shall
2105 only be allowed for the transportation of nonhazardous materials where an existing or
2106 new bridge or other structure is available and capable of supporting the line. When
2107 located on existing or new bridges or other structures with elevations below the level of
2108 the one-hundred-year flood, the transmission line shall be placed on the downstream side
2109 and protected from flood debris. In such instances, site-specific conditions and flood
2110 damage potential shall dictate placement, design and protection throughout the floodway.
2111 Applicants must demonstrate that such aboveground lines will have no appreciable effect
2112 upon flood depth, velocity or passage, and shall be adequately protected from flood
2113 damage. If the transmission line is to be buried except at the waterway crossing, burial
2114 specifications shall be determined as in subsection (2)(C) of this section;
2115 (f) Aboveground utility transmission line appurtenant structures, including valves, pumping
2116 stations, or other control facilities, shall not be permitted in the floodway,
2117 (g) Where a floodway has not been determined by preliminary Corps of Engineers'
2118 investigations or official designation, a floodway shall be defined by qualified
2119 engineering work by the applicant on the basis of a verified one-hundred-year flood
2120 event;
- 2121 (3) Construction or reconstruction of residential structures only as authorized in Section
2122 16C.05.36.020(3);
- 2123 (4) Improvements to existing residential structures that are not substantial improvements per
2124 Section 16C.05.24.260; provided, the improvement complies with the requirement set forth
2125 in Section 16C.05.36.020(2).
- 2126 (5) Water-dependent utilities and other installations which by their very nature must be in the
2127 floodway. Examples of such uses are: dams for domestic/industrial water supply, flood
2128 control and/or hydroelectric production; water diversion structures and facilities for water
2129 supply, irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and
2130 facilities; hydroelectric generating facilities and appurtenant structures; structures and
2131 nonstructural uses and practices; provided, that the applicant shall provide evidence that a
2132 floodway location is necessary in view of the objectives of the proposal, and provided further
2133 that the proposal is consistent with other provisions of this title and the Shoreline
2134 Management Master Program (YCC Title 16D). In all instances of locating utilities and other
2135 installations in floodway locations, project design must incorporate floodproofing and
2136 otherwise comply with subsection (2) above;
- 2137 (6) Dikes, provided that the applicant can provide evidence that:
- 2138 (a) Adverse effects upon adjacent properties will not result relative to increased floodwater
2139 depths and velocities during the base flood or other more frequent flood occurrences,
2140 (b) Natural drainage ways are minimally affected in that their ability to adequately drain
2141 floodwaters after a flooding event is not impaired,
2142 (c) The proposal has been coordinated through the appropriate diking district where
2143 applicable, and that potential adverse effects upon other affected diking districts have
2144 been documented;
- 2145 (7) Roads and bridges, subject to the regulations of Section (2) above.

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16C.05.36.020 Prohibited Uses

The following uses/developments are prohibited in the floodway:

- (1) Any structure, including manufactured homes, designed for, or to be used for human habitation of a permanent nature (including temporary dwellings authorized by Section 15.72.060);
- (2) All encroachments, including fill, new construction and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;
- (3) Construction or reconstruction of residential structures within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the assessed value of the structure either (A) before the repair, reconstruction or improvement is started, or (B) if the structure has been damaged and is being restored, before the damage occurred. Work done on structures to correct existing violations of existing health, sanitary or safety codes, or to structures identified as historic places shall not be included in the fifty percent. If subsection (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Chapters 16C.05.20 through 16C.05.72, including those set forth in subsection (5) below;
- (4) The construction or storage of any object subject to flotation or movement during flood level periods;
- (5) The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway, are specifically prohibited:
 - (a) The filling of wetlands, except as authorized under Chapter 16C.06 (Fish and Wildlife Habitat and the Stream Corridor) and Chapter 16C.07 (Wetlands) of this title,
 - (b) Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or materials,
 - (c) Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the occurrence of the base flood discharge;
- (6) The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited.

2192 **16C.05.40 NON-CONFORMING USES AND STRUCTURES**

2193 Sections:

- 2194 16C.05.40.010 Generally
- 2195 16C.05.40.020 Non-conforming Uses of Land
- 2196 16C.05.40.030 Non-conforming Structures
- 2197 16C.05.40.040 Improvements
- 2198 16C.05.40.050 Restoration
- 2199 16C.05.060 Discontinuance

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2201 **16C.05.40.010 Generally**

2202 (1) Within the special flood hazard areas established by Chapters 16C.05.20 through 16C.05.72
2203 or amendments thereto, there may exist structures and uses of land and structures which were
2204 lawful before these chapters were adopted or amended, but which would be prohibited,
2205 regulated or restricted under the terms of Chapters 16C.05.20 through 16C.05.72 or future
2206 amendment.

2207 (2) It is the intent of Chapters 16C.05.20 through 16C.05.72 to permit these lawful pre-existing
2208 nonconformities to continue until they are removed by economic forces or otherwise, but not
2209 to encourage their survival except in cases where continuance thereof would not be contrary
2210 to the public health, safety or welfare, or the spirit of said chapters.

2211 (3) To avoid undue hardship, nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed
2212 to require a change in the plans, construction, or designated use of any building on which
2213 actual construction was lawfully begun prior to June 5, 1985, the date Yakima County
2214 enacted Ordinance 3-1985 in order to meet the requirements of the National Flood Insurance
2215 Program, and upon which actual building construction has been diligently carried on;
2216 namely, actual construction materials placed in permanent position and fastened in a
2217 permanent manner. Where demolition or removal of an existing building has been
2218 substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to
2219 be actual construction, provided that work shall be diligently carried on until completion of
2220 the building involved. October 1, 1995, the effective date of the ordinance codified in this
2221 title shall be used as it applies to all other Critical Areas requirements established under this
2222 title by Ordinance 8-1995.

2223

2224 **16C.05.40.020 Non-conforming Uses of Land**

2225 If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a lawful use
2226 of land not conducted within a building exists that is made no longer permissible under the terms
2227 of said chapters as adopted or amended, such use may be continued as long as it remains
2228 otherwise lawful, subject to the following provisions:

2229 (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater
2230 area of the lot of record than that which it occupied at the effective date of adoption or
2231 amendment of Chapters 16C.05.20 through 16C.05.72.

2232 (2) At such time as a structure is erected thereon, the structure and the use of the land shall
2233 conform to the regulations specified by Chapters 16C.05.20 through 16C.05.72 and YCC
2234 Title 15 or 15A.

2235 **16C.05.40.030 Non-conforming Structures**

2236 (1) If, on October 1, 1995, the effective date of Chapters 16C.05.20 through 16C.05.72, a
2237 structure is nonconforming only because the structure is not in conformance with the

2238 applicable elevation and/or floodproofing requirement of said chapters and Chapter 15.68 of
2239 YCC Title 15, or Chapter 15A.19 of YCC Title 15A provided that the degree of
2240 nonconformity shall not be increased and the applicable elevation and/or floodproofing
2241 requirements of this title shall be observed, any structural alterations or enlargements of an
2242 existing structure under such conditions shall not increase the degree of nonconformity.

2243 (2) A structure, nonconforming only because the structure is not in conformance with the
2244 applicable elevation and/or floodproofing requirements of Chapters 16C.05.20 through
2245 16C.05.72, destroyed to an extent such that restoration costs would exceed fifty percent of
2246 the assessed value of the structure immediately prior to such occurrence, shall be considered
2247 completely destroyed and shall be required to meet all applicable requirements of this titles
2248 and YCC Title 15 or 15A upon restoration.

2249
2250 **16C.05.40.040 Improvements**

2251 Nothing in Chapters 16C.05.20 through 16C.05.72 shall be construed to restrict normal structural
2252 repair and maintenance activities, including replacement of walls, fixtures and plumbing,
2253 provided that the value of work and materials in any twelve-month period does not exceed
2254 twenty-five percent of the assessed value of the structure prior to such work.

2255
2256 **16C.05.40.050 Restoration**

2257 Nothing in Chapters 16C.05.20 through 16C.05.72 shall be deemed to prohibit the restoration of
2258 the structural portions of a nonconforming use within six months from the date of its accidental
2259 damage by fire, explosion, or act of God; provided that the applicable elevation and/or
2260 floodproofing requirements of said chapters shall be adhered to if the structure is destroyed. A
2261 structure shall be considered to be destroyed if the restoration costs exceed fifty percent of the
2262 assessed value.

2263
2264 **16C.05.060 Discontinuance**

2265 If the nonconforming use is discontinued for a period of twelve consecutive months or more, the
2266 nonconforming status of the use is terminated and any future use of the land or structures shall be
2267 in conformity with the provisions of this title. The mere presence of a structure, equipment, or
2268 material shall not be deemed to constitute the continuance of a nonconforming use unless the
2269 structure, equipment or material is actually being occupied or employed in maintaining such use.
2270 The ownership of property classed as nonconforming may be transferred without that fact alone
2271 affecting the right to continue such nonconforming use.

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2284 **16C.05.44 FLOOD HAZARD PROTECTION ADMINISTRATION**

2285 Sections:

- 2286 16C.05.44.010 Administration
- 2287 16C.05.44.020 Authority
- 2288 16C.05.44.030 Permit – Required
- 2289 16C.05.44.040 Permit – Application
- 2290 16C.05.44.050 Permit – Review
- 2291 16C.05.44.060 Use of Available Data
- 2292 16C.05.44.070 Limitations
- 2293 16C.05.44.080 Permit – Expiration & Cancellation

2294,

2295 **16C.05.44.010 Administration**

2296 The Chief Building Official is vested with the duty of administering the rules and regulations
2297 relating to flood hazard protection in accordance with the provisions of Chapters 16C.05.20
2298 through 16C.05.72 and may prepare and require the use of such forms as are essential to such
2299 administration.

2300

2301 **16C.05.44.020 Authority**

2302 Upon application, the Chief Building Official shall have the authority to grant a flood hazard
2303 permit when compliance with the applicable conditions as set forth in Chapters 16C.05.20
2304 through 16C.05.72 and in other applicable local, state and federal regulations has been
2305 demonstrated and the proposal is found to be consistent with the purpose of the policies of the
2306 Critical Areas Ordinance.

2307

2308 **16C.05.44.030 Permit – Required**

2309 Prior to any development within a special flood hazard area a flood hazard permit shall be
2310 obtained. This permit may be in addition to the critical area development authorization as set
2311 forth in Chapter 16C.03 of this title.

2312

2313 **16C.05.44.040 Permit – Application**

2314 All persons applying for a flood hazard permit shall submit a written application, accompanied
2315 by an application fee as specified in YCC Title 20, using the forms supplied. The application
2316 shall not be considered complete until the following minimum information is provided:

- 2317 (1) Name, address and telephone number of applicant;
- 2318 (2) Name, address and telephone number of property owner;
- 2319 (3) Project description and taxation parcel number;
- 2320 (4) Name of the stream or body of water associated with the floodplain in which the development
2321 is proposed;
- 2322 (5) Site plan map showing:
 - 2323 (a) Actual dimensions and shape of the parcel to be built on,
 - 2324 (b) Sizes and location of existing structures on the parcel to the nearest foot,
 - 2325 (c) Location and dimensions of the proposed development, structure or alteration,
 - 2326 (d) Location, volume and type of any proposed fill,

- 2327 (e) The application shall include such other information as may be required by the
2328 administrative official, to clarify the application, including existing or proposed building
2329 or alteration, existing or proposed uses of the building and land, and number of families,
2330 housekeeping units or rental units the building is designed to accommodate, conditions
2331 existing on the lot, and such other matters as may be necessary to determine conformance
2332 with, and provide for the enforcement of Chapters 16C.05.20 through 16C.05.72;
2333 (6) Information required by other sections of Chapters 16C.05.20 through 16C.05.72.
2334

2335 **16C.05.44.050 Permit – Review**

2336 Flood hazard permit applications will be reviewed to determine:

- 2337 (1) That the floodproofing requirements and other provisions of Chapters 16C.05.20 through
2338 16C.05.72 have been satisfied;
2339 (2) If the proposed development is located in the floodway, the floodway encroachment
2340 provisions of Section 16C.05.36.020(2) are met;
2341 (3) If the proposed development includes the alteration or relocation of a watercourse, the
2342 provisions of Section 16C.05.28.010(d) are met;
2343 (4) That the proposed development is a use permitted under Chapters 16C.05.20 through
2344 16C.05.72 and YCC Title 15 or 15A;
2345 (5) That all necessary permits have been obtained from those federal, state or local governmental
2346 agencies from which prior approval is required.
2347

2348 **16C.05.44.060 Use of Available Data**

2349 When base flood elevation data has not been provided in accordance with Section
2350 16C.05.20.010, Flood hazard areas established, the county shall obtain, review, and reasonably
2351 utilize any base flood elevation and floodway data available from a federal, state or other source,
2352 in order to administer Section 16C.05.28.020, Specific standards, and 16C.05.36.020, Floodway
2353 Prohibited Uses, and Chapter 16C.04 (Enforcement and Penalties).
2354

2355 **16C.05.44.070 Limitations**

2356 Permits issued on the basis of plans and applications approved by the administrative official
2357 authorize only the use, arrangement and construction set forth in such approved plans and
2358 applications, and no other use, arrangement or construction. Use, arrangement or construction at
2359 variance with that authorized is a violation of Chapters 16C.05.20 through 16C.05.72 and
2360 punishable as provided by 16C.04 (Enforcement and Penalties).
2361

2362 **16C.05.44.080 Permit – Expiration & Cancellation**

2363 If the work described in any permit has not begun within one hundred eighty days from the date
2364 of issuance thereof, the permit shall expire and be canceled by the chief building official.
2365

2366 **16C.05.44.090 Performance bonds**

- 2367 (1) The county may require bonds in such form and amounts as may be deemed necessary to
2368 assure that the work shall be completed in accordance with approvals under Chapters
2369 16C.05.20 through 16C.05.72. Bonds, if required, shall be furnished by the property owner,
2370 or other person or agent in control of the property.
2371 (2) In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the
2372 department in an amount equal to that which would be required in the surety bond.

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16C.05.44.100 Appeals

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

16C.05.44.110 Coordination

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

16C.05.48 ELEVATION AND FLOODPROOFING CERTIFICATION

Sections:

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

16C.05.48.010 Applicability

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

16C.05.48.020 Certification Form

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

16C.05.48.030 Information to be obtained and maintained

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

- (1) The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
- (2) The actual elevation (in relation to mean sea level) of floodproofing of all new or substantially improved floodproofed structures, and that the floodproofing measures utilized below the base flood elevation render the structure watertight, with walls substantially impermeable to the passage of water;

2416 (3) Where a base flood elevation has not been established according to Section 16C.05.20.010,
2417 obtain and record the actual elevation (in relation to mean sea level) of the lowest floor
2418 (including basement) as related to the highest adjacent grade, and whether or nor the
2419 structure contains a basement.

2420

2421 **16C.05.48.040 Certification Responsibility**

2422 The project proponent shall be responsible for providing required certification data to the Chief
2423 Building Official prior to the applicable construction inspection specified in the certification
2424 form. All elevation and floodproofing data specified in Section 16C.05.48.030 must be obtained
2425 and certified by a registered professional engineer, architect, or surveyor. The elevation and
2426 floodproofing certification shall be permanently maintained by the chief building official.

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2429 **16C.05.52 VARIANCES**

2430 **Sections:**

| | | |
|------|---------------|------------------------------------|
| 2431 | 16C.05.52.010 | Procedure |
| 2432 | 16C.05.52.020 | Variance limitations |
| 2433 | 16C.05.52.030 | Conditions for Authorization |
| 2434 | 16C.05.52.040 | Administrative Official's Decision |
| 2435 | 16C.05.52.050 | Notification and Final Decision |
| 2436 | 16C.05.52.060 | Power to Refer Decisions |
| 2437 | 16C.05.52.070 | Appeals |

2438

2439 **16C.05.52.010 Procedure**

2440 Any person seeking a variance from the requirements of Chapters 16C.05.20 through 16C.05.72
2441 authorized under Section 16C.05.52.020 shall make such request in writing to the department on
2442 forms supplied by the department. Upon receipt of a completed application and application fee
2443 for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent
2444 property within twenty days of the receipt of completed application and fee. The notice shall
2445 solicit written comment on the variance request and specify a time period not less than ten days
2446 from the date of mailing, during which written comments may be received and considered. The
2447 notice shall also state that copies of the administrative official's final decision will be mailed
2448 upon request. The administrative official may also solicit comments from any other person or
2449 public agency he or she feels may be affected by the proposal.

2450

2451 **16C.05.52.020 Variance limitations**

- 2452 (1) Variances shall be limited solely to the consideration of:
- 2453 (a) Elevation requirements for lowest floor construction;
 - 2454 (b) Elevation requirements for floodproofing;
 - 2455 (c) The type and extent of floodproofing.
- 2456 (2) Variances shall not be considered for any procedural or informational requirements or use
2457 prohibitions of Chapters 16C.05.20 through 16C.05.72.

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2462 **16C.05.52.030 Conditions for Authorization**

2463 Before a variance to the provisions of Chapters 16C.05.20 through 16C.05.72 may be authorized,
2464 it shall be shown that:

- 2465 (1) There are special circumstances applicable to the subject property or to the intended use,
2466 such as size, topography, location or surroundings, that do not apply generally to other
2467 property in the same vicinity and zone; and
2468 (2) The granting of such variance will not be materially detrimental to the public welfare or
2469 injurious to the property or improvements in the vicinity and zone in which the subject
2470 property is located; and
2471 (3) Such a variance is the minimum necessary, considering the flood hazard, to afford relief; and
2472 (4) Failure to grant the variance would result in exceptional hardship to the applicant; and
2473 (5) The granting of such a variance will not result in:
2474 (a) Increased flood heights,
2475 (b) Additional threats to public safety,
2476 (c) Creation of nuisances,
2477 (d) Extraordinary public expense,
2478 (e) Conflicts with other existing local laws or ordinances.

2479
2480 **16C.05.52.040 Administrative Official's Decision**

2481 After considering any comments received from other agencies, jurisdictions or adjoining
2482 property owners, the administrative official shall approve, approve with conditions, or deny the
2483 variance request. The administrative official shall prepare written findings and conclusions
2484 stating the specific reasons upon which the decision is based.

2485
2486 **16C.05.52.050 Notification and Final Decision**

2487 The decision shall be issued within seven days from the end of the comment period. Further, the
2488 administrative official shall mail the findings and decision to the applicant and to other parties of
2489 record requesting a copy.

2490
2491 **16C.05.52.060 Power to Refer Decisions**

2492 In exercising the duties and powers of implementing and administrating Chapters 16C.05.20
2493 through 16C.05.72, the administrative official may refer any variance application to the hearing
2494 examiner for action at a public hearing.

2495
2496 **16C.05.52.070 Appeals**

2497 Any decision by the administrative official to approve or deny a variance request may be
2498 appealed subject to the procedures set forth in Section 16C.03.13 (Development Authorization –
2499 Review Procedure).

2500
2501 **16C.05.72 Map Correction Procedures**

2502
2503 **Sections:**

2504 **16C.05.72 Map Correction Procedures**

2505 16C.05.72.010 Federal flood hazard map correction procedures. The procedures for federal
2506 flood hazard map correction, as provided in federal regulations Section 70 CFR of the National
2507 Insurance Program are hereby adopted by reference.

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| 2509 | Chapter 16C.06 | |
| 2510 | FISH AND WILDLIFE HABITAT AND THE STREAM CORRIDOR SYSTEM | |
| 2511 | <u>Sections:</u> | |
| 2512 | Introduction | |
| 2513 | 16C.06.01 | Purpose and Intent |
| 2514 | 16C.06.02 | Protection Approach |
| 2515 | | |
| 2516 | Designation and Mapping | |
| 2517 | 16C.06.03 | Hydrologically Related Critical Area Features |
| 2518 | 16C.06.05 | Functional Properties |
| 2519 | 16C.06.06 | Stream, Lake and Pond Typing System |
| 2520 | 16C.06.07 | Wetland Rating System |
| 2521 | 16C.06.08 | Maps |
| 2522 | | |
| 2523 | General Development Standards | |
| 2524 | 16C.06.10 | Prohibited Uses |
| 2525 | 16C.06.11 | General Policies and Standards |
| 2526 | | |
| 2527 | Water Dependency Development Standards and Buffer Requirements | |
| 2528 | 16C.06.12 | Use Classifications |
| 2529 | 16C.06.13 | Water-dependent Uses |
| 2530 | 16C.06.14 | Water-related Uses |
| 2531 | 16C.06.15 | Non-water Oriented Uses |
| 2532 | 16C.06.16 | Vegetative Buffers |
| 2533 | | |
| 2534 | Land Modification Development Standards | |
| 2535 | 16C.06.17 | Roads, Railroads and Parking |
| 2536 | 16C.06.18 | Utility Transmission Lines |
| 2537 | 16C.06.19 | Shore Stabilization |
| 2538 | 16C.06.20 | Dredging and Excavation |
| 2539 | 16C.06.21 | Filling |
| 2540 | 16C.06.22 | Commercial Mining of Gravels |
| 2541 | 16C.06.23 | Reclamation |
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16C.06.01 Purpose and Intent

- (1) The stream corridor system includes hydrologically related critical areas, streams, lakes, ponds, and wetlands, and are part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. The purpose of this chapter is to establish guidelines, policies, and standards to help conserve, protect, and, where feasible, restore and enhance this complex relationship. These regulations have been designed to:
- (a) Meet the requirements of the Growth Management Act (RCW 36.70A.172) to protect the functions and values of fish and wildlife habitat, wetlands, stream undercutting geologic hazards and frequently flooded areas; and to give special consideration to anadromous fish;
 - (b) Meet eligibility requirements of the National Flood Insurance Program (NFIP).
- (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 365-190-080(5) (Fish and Wildlife Habitat Conservation Areas) wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important;

16C.06.02 Protection Approach

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

2588 (c) Protect upland habitat conservation areas using the habitat protection measures of
2589 Chapter 16C.11.

2590 (2) Yakima County has a very high proportion of federal, state and other publicly and tribally
2591 owned land, including State Natural Area Preserves and Natural Resource Conservation
2592 Areas. These lands are managed to some extent for the conservation of wildlife habitat.
2593 Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is
2594 to rely on the management of these lands by the responsible entity. The protection of Larch
2595 mountain salamander (*Plethodon larselli*) (State Sensitive, Federal Species of Concern) and
2596 Spotted Owl (*Strix occidentalis*) (State Endangered, Federal Threatened) habitat is
2597 accomplished through this approach, since their habitat of primary association is located
2598 within Federal ownership.

2599 (3) To accomplish upland wildlife protection on private lands, Yakima County performed an
2600 assessment to map wildlife habitat. Only a small percentage of the mapped area is within
2601 private ownership and that is largely in remote areas of forest and rangeland. Consequently,
2602 part of Yakima County's approach to protect upland wildlife on private land is to rely on the
2603 large lot/low density provisions of the Remote (40 acre minimum), Forest (80 acre minimum)
2604 and Agriculture (40 acre minimum) zoning districts.

2605 (4) Corridors for wildlife to move between large habitat areas are a component of wildlife
2606 habitat. Riparian corridors offer a natural system of linkages between such areas. In semi-
2607 arid regions such as Yakima County, riparian corridors not only offer migratory linkages
2608 between large habitat areas but also offer important refuge and habitat for numerous species
2609 that rely on the riparian areas for their existence. Consequently, Yakima County's approach
2610 to protect wildlife migration corridors and riparian habitat is to rely on the protection
2611 measures for stream corridors, wetlands, and Shoreline jurisdiction (YCC 16D), where
2612 applicable.

2613 (5) Through the wildlife habitat analysis, habitat for listed state and federal threatened,
2614 endangered, and sensitive species was assessed and incorporated for upland species.
2615 Consequently, Yakima County's approach to protect habitat for listed state and federal
2616 threatened, endangered, and sensitive upland species is to require approval of a standard
2617 development permit, the submittal of a habitat assessment, and where necessary,
2618 development of a management plan consistent with state and/or federal guidelines as outlined
2619 in Section 16C.11.060 and 16C.11.070 below. Protection measures for Bull Trout
2620 (*Salvelinus confluentus*) (State Candidate, Federal Threatened) and Steelhead
2621 (*Oncorhynchus mykiss*) (State Candidate, Federal Threatened) are accomplished by the
2622 standards in chapter 16C.06.

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2624

Designation and Mapping

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16C.06.03 Hydrologically Related Critical Area Features

2627 The stream corridor and other hydrologically related critical areas include one or more of the
2628 following features:

2629 (1) Any floodway and floodplain identified as a special flood hazard area. Special flood hazard
2630 areas are those identified by the Federal Insurance Administration in the Flood Insurance
2631 Study for Yakima County which, together with accompanying Flood Insurance Maps, is
2632 hereby adopted by reference and declared to be a part of this title as set forth in Chapters
2633 16C.05.20 through 16C.05.72;

- 2634 (2) Perennial and intermittent streams, excluding ephemeral streams, including the stream main
- 2635 channel and all secondary channels within the Ordinary High Water Mark;
- 2636 (3) Naturally occurring ponds under twenty acres and their submerged aquatic beds; and man-
- 2637 made lakes and ponds created within a stream channel designated under (2) above;
- 2638 (4) All wetlands, that meet the definition found in Section 16C.02.425, as required by WAC 365-
- 2639 190-080(1), and as designated in section 16C.07.02(1) of the wetland chapter;
- 2640 (5) Where specifically cited, any flood-prone area not included in a designated floodway and
- 2641 floodplain but indicated as flood-prone by U.S. Soil Conservation Service soil survey data or
- 2642 geologic evidence developed through professional geologists or engineers;
- 2643 (6) A buffer area extending on a horizontal plane from the ordinary high water mark of a stream
- 2644 channel, lake, or pond, designated in this section or from the edge of a wetland designated in
- 2645 this section according to the distances set forth in Section 16C.06.16 (Vegetative Buffers);
- 2646

2647 **16C.06.05 Functional Properties**

- 2648 (1) Streams, lakes and ponds and wetlands require a sufficient riparian area to support one or
- 2649 more of the following functional properties:
- 2650 (a) Streambank and shore stabilization;
- 2651 (b) Providing sufficient shade through canopy cover to maintain water temperatures at
- 2652 optimum levels and to support fish habitat;
- 2653 (c) Moderating the impact of stormwater and meltwater runoff;
- 2654 (d) Filtering solids, nutrients, and harmful substances;
- 2655 (e) Surface erosion prevention;
- 2656 (f) Providing and maintaining migratory corridors for wildlife;
- 2657 (g) Supporting a diversity of wildlife habitat;
- 2658 (h) Providing floodplain functions noted below;
- 2659 (i) Contributing woody debris and organic matter to the aquatic environment;
- 2660 (j) Providing altered climatic conditions different from upland areas.
- 2661 (2) Stream channels generally support one or more of the following functional properties:
- 2662 (a) Groundwater recharge and/or discharge;
- 2663 (b) Water transport;
- 2664 (c) Sediment transport and/or storage;
- 2665 (d) Biogeochemical functions (see lakes, ponds and wetland functions below);
- 2666 (e) Channel migration and creation of a dynamic habitat mosaic;
- 2667 (f) Food web and habitat functions
- 2668 (3) Lakes, ponds and wetlands generally provide similar functions, sometimes to a greater or
- 2669 lesser degree. Wetlands are often located along the margins of lakes and ponds, which often
- 2670 mixes the functions between the two. Lakes, ponds and wetlands generally provide one or
- 2671 more of the following functional properties:
- 2672 (a) Biogeochemical functions, which are related to trapping and transforming chemicals and
- 2673 include functions that improve water quality in the watershed such as: nutrient retention
- 2674 and transformation, sediment retention, metals and toxics retention and transformation;
- 2675 (b) Hydrologic functions, which are related to maintaining the water regime in a watershed,
- 2676 such as: flood flow attenuation, decreasing erosion, groundwater recharge;
- 2677 (c) Food web and fish and wildlife habitat functions, which includes habitat for:
- 2678 invertebrates, amphibians, anadromous fish, resident fish, birds, mammals.
- 2679 (4) Floodplains generally provide one or more of the following functional properties:

- 2680 (a) Floodwater storage and passage, including the movement of high velocity flood waters;
- 2681 (b) Sediment storage and recruitment;
- 2682 (c) Food web and habitat functions;
- 2683 (d) Nutrient sink and/or source;
- 2684 (e) Groundwater recharge and/or discharge.
- 2685 (5) Some functions, as, for example, supporting a diversity of wildlife habitat, require larger
- 2686 areas which may not be achievable due to existing development and construction constraints.
- 2687 In these instances, adjustments to the minimum standards to accommodate such constraints
- 2688 may be necessary. However, a reduction of standards impairs the hydrologically related
- 2689 critical area's ability to support some functional properties. Reductions of standards should be
- 2690 offset by enhancement, restoration or preservation measures which replace lost functions or
- 2691 strengthen other functional properties if replacement of the lost functions is not possible.
- 2692

2693 **16C.06.06 Stream, Lake and Pond Typing System**

2694 For purposes of this title, Yakima County hereby adopts a stream, lake and pond typing system,
 2695 for those features designated as critical areas in section 16C.06.03 (Hydrologically Related
 2696 Critical Area Features), as follows:

- 2697 (1) **Type 1 streams**, lakes and ponds are those waters , within their ordinary high water mark
- 2698 (OHWM), meeting the criteria as "shorelines of the state" and "shorelines of statewide
- 2699 significance" under RCW Chapter 90.58, but not including those waters' associated wetlands
- 2700 as defined in RCW Chapter 90.58. The current list of Shoreline waters, along with their
- 2701 specific shoreline environments are provided in Appendix B and C of the Shoreline Master
- 2702 Program. Type 1 streams and lakes are protected by the Shoreline Mater Program (YCC Title
- 2703 16D), rather than the CAO;
- 2704 (2) **Type 2 streams** are those streams that may be perennial or seasonal and that are known to be
- 2705 used by anadromous fish. Type 2 streams require protection due to the nature of their
- 2706 contributions to the functional properties listed in Section 16C.06.05. Designated Type 2
- 2707 streams are listed in Appendix A of this title.;
- 2708 (3) **Type 3 streams** include all perennial streams within Yakima County not classified as Type 1
- 2709 or 2;
- 2710 (4) **Type 4 streams** are all intermittent streams within Yakima County not classified as Type 1,
- 2711 2 or 3;
- 2712 (5) **Type 5 streams** are all ephemeral streams within Yakima County not classified as Type 1, 2,
- 2713 3 or 4. Type 5 streams are not regulated under this title;
- 2714 (6) **Lakes and ponds** not designated as a shoreline that receive water from the OHWM of a
- 2715 Type 2, 3, or 4 stream shall have the same surface water type as the highest stream type
- 2716 associated with it;
- 2717 (7) **Natural lakes and ponds**, not designated as a shoreline, that do not receive water from the
- 2718 OHWM of a Type 1, 2, 3, or 4 stream shall be Type 3 ponds.
- 2719
- 2720
- 2721

2722 **16C.06.07 Wetland Rating System**

2723 Wetlands within Yakima County are defined in Section 16C.02.425 and are shown on the data
 2724 maps referenced in Section 16C.06.08 (Maps). Most, but not all, of the wetlands within Yakima
 2725 County occur near streams. All wetlands deserve a standard of protection, through the use of

2726 vegetative buffers, that is directly related to their contribution to the functional properties listed
2727 in Section 16C.06.05 (Functional Properties) and section 16C.07.04 (Wetland Functions and
2728 Rating). For regulatory purposes, wetlands are classified into four categories according to the
2729 Wetland Rating System found in section 16C.07.04(2) (Wetland Functions and Rating) of the
2730 wetland chapter.

2731

2732 **16C06.08 Maps**

2733 Certain fish and wildlife habitat and hydrologically related critical areas have been inventoried
2734 and are depicted on a series of paper and electronic maps maintained at the Yakima County
2735 Public Services Department. The best available graphic depiction of critical areas within the
2736 county will be used and continuously updated as reliable data becomes available. Maps may be
2737 both regulatory and non-regulatory in nature as described below:

2738 (1) Regulatory maps are created with a defined process not necessarily corresponding directly
2739 with easily observable physical features such as streams and wetlands. These maps define
2740 the regulated critical areas. They are also formally adopted by the Board of Yakima County
2741 Commissioners and may only be changed by that body. Regulatory maps include the
2742 following:

2743 (a) Any floodway or floodplain identified as a special flood hazard area by the Federal
2744 Insurance Administration in the Flood Insurance Study for Yakima County.

2745 (2) Administrative maps are intended to indicate the approximate presence, location and/or
2746 typing of the subject critical area features, and act as a trigger for further investigation of the
2747 extent and characteristics of critical areas in a specific project location. These maps were
2748 created using reconnaissance level or better data. Given site-specific variations in
2749 reconnaissance level data, more detailed information developed at the site-specific level may
2750 be used to modify the maps as it is developed; the maps maintained by the Yakima County
2751 Public Services Department do not officially define the extent or characteristics of specific
2752 critical areas; rather the physical characteristics that exist “on the ground” define the
2753 boundaries of the regulated critical areas. Administrative maps include, but are not limited to
2754 the following:

2755 (a) Wetlands;

2756 (b) Streams;

2757 (c) Channel migration zone;

2758 (d) Species and Habitats of Local Importance - Mapped habitat areas for newly listed species
2759 will be generated as needed to supplement the existing maps. Habitats of local
2760 importance currently include:

2761 i) Type 2 Streams, lakes and/or ponds listed in Appendix A.

2762 (e) Upland Wildlife Habitat Analysis Map.

2763 (3) Other information sources – these are maps or other data sources, including special studies
2764 and management plans, which are neither produced or maintained by the Yakima County
2765 Public Services Department, which are used to indicate the presence of Critical Areas,
2766 importance or ranking of critical areas functions, or hazard or risk associated with Critical
2767 Areas. These information sources include, but are not limited to:

2768 (a) Comprehensive Flood Hazard Management Plans and associated studies;

2769 (b) Soil Survey of Yakima County;

2770 (c) Natural resource management plans, such as local and federal Recovery Plans, or Forest
2771 Plans prepared by the US Forest Service;

- 2772 (d) Surficial Geologic Maps;
- 2773 (e) Historic and Current Aerial Photo Series;
- 2774 (f) Geohydraulic studies – geologic cross sections showing aquifers and confining units.

2775

2776

General Development Standards

2777

16C.06.10 Prohibited Uses

2778 The following uses and activities are prohibited within a designated hydrologically related
2779 critical area:

2780
2781 (1) Storage, handling, and disposal of material or substances that are dangerous or hazardous
2782 with respect to water quality and life safety;

2783 (2) Confinement feeding operations including livestock feedlots and dairy confinement areas;

2784 (3) The placement of mining tailings, spoilage, and mining waste materials, except for that
2785 associated with the mining of gravel;

2786 (4) The draining or filling of a wetland, lake or pond, except as provided for in Section
2787 16C.06.21 (Filling);

2788 (5) The removal and transport of material for fill outside of the stream corridor;

2789 (6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds,
2790 and other similar waste disposal facilities. This provision does not include municipal
2791 wastewater lines or septic systems approved by a local or state agency with authority to
2792 permit such facilities;

2793 (7) Solid waste disposal sites;

2794 (8) Automobile wrecking yards;

2795 (9) Fill for the sole purpose of increasing land area within the stream corridor;

2796 (10) Those uses located within the floodway fringe that are listed in 16C.05.32.020 (new and
2797 expanded mobile or manufactured home parks);

2798 (11) Those uses located within the floodway that are listed in 16C.05.36.020 (dwellings,
2799 filling wetlands, landfills, junkyards, storage of vehicles and material, damming streams, and
2800 any use causing flood impacts.)

2801

16C.06.11 General Policies and Standards

2802 The following policies and standards shall apply to any development, construction, or use carried
2803 out within a designated hydrologically related critical area:

2804
2805 (1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside
2806 edges of stream and/or wetland buffers shall be marked on the ground before any
2807 development, construction, or use is initiated.

2808 (2) Existing riparian vegetation and any unique or sensitive vegetative species identified on the
2809 project site within the stream corridor shall be disturbed to the minimum extent possible.

2810 (3) Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be
2811 disturbed to the minimum extent possible.

2812 (4) Projects within the stream corridor shall be scheduled to occur at times and during seasons
2813 having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling
2814 recommendations from the appropriate state and/or federal agency may be considered.

2815 (5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved
2816 by a local, state or federal agency, and transportation projects using stormwater manuals that

- 2817 are deemed equivalent to the Eastern Washington Stormwater Manual are exempt from the
2818 requirements below.
- 2819 (a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to
2820 erosion of upland soils shall be confined to the minimum necessary to complete the
2821 authorized work and avoid increased sediment load.
- 2822 (b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for
2823 periods when soils are the least vulnerable to erosion, compaction and movement unless
2824 suitable protective measures are used to prevent erosion.
- 2825 (c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to
2826 ensure the minimal duration of exposed, unprotected soils.
- 2827 (d) Increases in impervious surface area, compaction of soil, changes in topography, and
2828 other modifications of land within a stream corridor which are determined will
2829 permanently increase stormwater and meltwater runoff into stream channels, drainage
2830 ways, and conduits, shall provide on-site or off-site facilities for the detention, control,
2831 and filtration of such increases.
- 2832 (e) The discharge point for controlled stormwater and meltwater runoff and other outfall
2833 shall be designed and constructed to avoid causing erosion through the use of native
2834 riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap,
2835 splash plates, or other demonstrably effective means.
- 2836 (f) Matting or approved temporary ground cover shall be used to control erosion until natural
2837 vegetative ground cover is successfully established.
- 2838 (6) Development, construction, and uses shall not directly or indirectly degrade surface water
2839 and groundwater through the introduction of nutrients, fecal coliform, toxins, and other
2840 biochemical substances.
- 2841 (7) Prior to the approval of development, construction, or uses within a designated stream
2842 corridor, any existing source of biochemical or thermal degradation identified as originating
2843 on the project property or on contiguous properties of the same ownership shall be corrected.
- 2844 (8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk
2845 products, application schedules, and other protective methodology to minimize the surface
2846 and subsurface transfer of biochemical materials into the stream corridor.
- 2847 (9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other
2848 stream features shall not permanently alter or obstruct the natural volume or flow of surface
2849 waters.
- 2850 (10) Development, construction, or uses within the stream corridor shall not alter or divert
2851 flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream
2852 or downstream flood hazard areas, or otherwise threaten public or private properties.
- 2853 (11) Wells located within a stream corridor shall be protectively lined and installed in a deep
2854 aquifer with an acceptable minimum hydraulic continuity with either surface waters or a
2855 shallow aquifer.
- 2856 (12) Structures placed in close proximity to the outer edge of bends in stream channels
2857 identified as having a high potential to meander shall be located to minimize the hazard from
2858 stream undercutting and stream bank erosion stemming from potential future stream
2859 migration.
- 2860 (13) Adjacent communities and the Department of Ecology shall be notified prior to any
2861 alteration or relocation of a watercourse and evidence of such notification shall be submitted
2862 to the Federal Emergency Management Agency.

- 2863 (14) Require that maintenance is provided within the altered or relocated portion of said
2864 watercourse so that the flood-carrying capacity is not diminished.
- 2865 (15) Development, construction, or uses within the hydrologically related critical area that
2866 would contribute to the degradation of the functions and values shall be avoided or mitigated
2867 using mitigation sequencing as outlined in section 16C.03.10 (Mitigation Requirements).
- 2868 (16) Development shall not obstruct, cut off, or isolate stream corridor features.
- 2869 (17) Nothing in these regulations shall constitute authority of any person to trespass or in any
2870 way infringe upon the rights of private ownership.
- 2871 (18) If archaeological resources are uncovered during excavation, developers and property
2872 owners shall immediately stop work and notify Yakima County, the Washington State Office
2873 of Archaeology and Historic Preservation and any affected indian tribes. Archaeological
2874 sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological
2875 sites and records), and development or uses that may impact such sites shall comply with
2876 WAC 25-48 (Archaeological Excavation and Removal Permit).
- 2877 (19) The provisions of Chapter 16C.05 of this title shall also apply to the development of lots
2878 and the placement, construction, or installation of structures in floodways and floodplains.
- 2879 (20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of
2880 construction activities (excluding approved permanent use areas) shall be repaired at the
2881 completion of construction using reclamation standards in section 16C.06.23 (Reclamation).
- 2882 (21) Projects located within the floodway must meet the requirements of 16C.05.36.010
2883 (Floodway – Permitted Uses).
- 2884 (22) Projects within a floodplain must meet the requirements of section 16C.05.28. (Flood
2885 Hazard Protection Standards) and 16C.05.32 (Floodway Fringe Uses).
- 2886 (23) Changing from an existing use or development which does not meet the provisions of this
2887 chapter to a new use shall be reviewed in light of the following:
- 2888 (a) The conversion will demonstrably reduce impacts to stream corridor and other
2889 hydrologically related critical area features; and
- 2890 (b) The conversion will restore and/or enhance the functional properties outlined in Section
2891 16C.06.05 (Functional Properties).

2892 **Water Dependency Development Standards and Buffer Requirements**

2893 **16C.06.12 Use Classifications**

2894 For purposes of this chapter, the components of any development, construction, or use requiring
2895 a critical area development authorization shall be classified as provided below, and shall conform
2896 with the development standards applicable to the classification provided in 16C.06.13 through
2897 16C.06.15, except for those activities listed in Section 16C.03.05 (Minor Activities Allowed
2898 without a Permit or Exemption):

2899 (1) Water Oriented Uses are one of the following two (2) categories of uses:

- 2900 (a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching
2901 facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland
2902 crossings for roads and railroads, stream and wetland crossings for utilities, swimming
2903 beaches, fishing sites, in-water or on-land shore stabilization structures, livestock
2904 watering sites, and other uses that cannot exist in any other location and are dependent on
2905 the water by reason of the intrinsic nature of their operations. This provision applies only
2906
2907

2908 to the specific portion of a project that is demonstrably dependent upon the water or
2909 shore.

2910 (b) A water-related use is one not intrinsically dependent on a waterfront location but whose
2911 economic viability is enhanced by a waterfront location either because it requires large
2912 quantities of water, or because it provides services for water dependant uses and the
2913 proximity to its customers makes such services less expensive and/or more convenient.
2914 Examples would include thermal power plants, wastewater treatment plants, water
2915 processing and treatment plants, support services for fish hatcheries or aquaculture, fly
2916 shops and boat rental shops.

2917 (2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

2918

2919 **16C06.13 Water-dependent Uses**

2920 The following provisions shall apply to water-dependent uses:

2921 (1) Structures shall be clustered at locations on the water's edge having the least impact to the
2922 surface water and shore;

2923 (2) Use areas and structures which require direct shore locations shall be located and constructed
2924 to minimize impacts to the shore area and the vegetative buffer specified in Section
2925 16C.06.16 (Vegetative Buffers);

2926 (3) Use areas and structures requiring direct shore locations shall minimize any obstruction or
2927 impairment of normal public navigation of the surface water.

2928

2929 **16C.06.14 Water-related Uses**

2930 The following provisions shall apply to water-related uses:

2931 (1) Structures and use areas shall be located as far landward from the ordinary high water mark
2932 or wetland edge as is possible and still preserve the essential or necessary relationship with
2933 the surface water;

2934 (2) Structures and use areas shall not be located within the vegetative buffer specified in Section
2935 16C.06.16 (Vegetative Buffers) except where existing development or the requirements
2936 associated with the use make such a location unavoidable.

2937

2938 **16C.06.15 Non-water Oriented Uses**

2939 The following provisions shall apply to non-water-oriented uses:

2940 (1) Structures and use areas shall be set back so as not to be located within the vegetative buffer
2941 specified in Section 16C.06.16 (Vegetative Buffers);

2942 (2) Construction abutting the vegetative buffer specified in Section 16C.06.16 (Vegetative
2943 Buffers) shall be designed and scheduled to ensure there will not be permanent damage or
2944 loss of the vegetative buffer.

2945

2946 **16C.06.16 Vegetative Buffers**

2947 Establishment. There is hereby established a system of vegetative buffers that are necessary to
2948 protect the functions and values of certain hydrologically related critical areas. Standard buffers
2949 for streams, lakes, ponds and wetlands, based on a review of the best available science, are listed
2950 in table 6-1 and 6-2.

2951 (1) Vegetative buffers shall be measured horizontally from the Ordinary High Water Mark
2952 (OHWM) for streams, lakes and ponds, and from the wetland edge for wetlands, as identified

2953 in the field. The width of the buffer shall be determined according to the stream or wetland
 2954 type.
 2955 (2) Buffer width may be reduced through an Adjustment (16C.03.23) permit process. Type 1
 2956 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D)
 2957 rather than the Critical Areas Ordinance (YCC Title 16C).
 2958 (3) The adequacy of these standard buffer widths presumes the existence of a relatively intact
 2959 native vegetation community in the buffer zone adequate to protect the stream functions and
 2960 values at the time of the proposed activity. If the vegetation is degraded, then no adjustment
 2961 to the buffer width should be granted and re-vegetation should be considered. Where the use
 2962 is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.
 2963
 2964

Table 6 – 1

| Stream Type | Buffer Width |
|--|--|
| | See 16C.06.16, subsections 1-4. |
| Type 1 Shoreline streams, lakes and ponds | 100' (Type 1 streams, lakes, and ponds are protected by the Shoreline Master Program (YCC Title 16D) rather than the Critical Areas Ordinance (YCC Title 16C)) |
| Type 2 streams, lakes and ponds | 100'/ |
| Type 3 streams (Perennial), lakes and ponds | 50' |
| Type 4 streams (Intermittent), lakes and ponds | 25' |
| Type 5 streams (Ephemeral) | No buffer standards Type 5 streams are not regulated Type 5 streams are not regulated through buffer requirements, but 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. |

2965
 2966
 2967

Table 6-2

| Type 1 Wetlands | Type 2 Wetlands | Type 3 Wetlands | Type 4 Wetlands |
|------------------------|------------------------|------------------------|------------------------|
| 200' | 100' | 75' | 50' |

2968
 2969
 2970
 2971

Land Modification Development Standards

16C.06.17 Roads, Railroads and Parking

2972 The following provisions shall apply to the location and construction of roads, railroads and
2973 parking within a designated hydrologically related critical area; except that logging roads, being
2974 a special category of roads, may be regulated as Forest Practices under this title (refer to those
2975 relevant sections):

- 2976 (1) Roads and railroads shall not be located within a designated stream corridor except where it
2977 is necessary to cross the corridor, or where existing development, topography, and other
2978 conditions preclude locations outside the stream corridor.
 - 2979 (a) Construction of roadways across stream corridors shall be by the most direct route
2980 possible having the least impact to the stream corridor.
 - 2981 (b) Roadways that must run parallel to stream or wetland edges shall be along routes having
2982 the greatest possible distance from stream or wetland and the least impact to the corridor.
 - 2983 (c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate
2984 stream corridor features.
- 2985 (2) Material excavated from the roadway area to achieve the design grade shall be used as fill
2986 where necessary to maintain grade, or shall be transported outside the corridor;
- 2987 (3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause
2988 displacement that would increase the elevation of flood waters such that it would cause
2989 properties not in the floodplain to be flood-prone;
- 2990 (4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the
2991 stream corridor;
- 2992 (5) Bridges and water-crossing structures shall not constrict the stream channel or impede the
2993 flow of the ordinary high water, sediment and woody debris;
- 2994 (6) The preservation of natural stream channels and drainage ways shall be preferred over the
2995 use of culverts, where culverts are the preferred method, large, natural bottom culverts,
2996 multi-plate pipes and bottomless arches are preferred;
- 2997 (7) The alignment and slope of culverts shall parallel and match the natural flow of streams or
2998 drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to
2999 accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.
- 3000 (8) Where fish are present, culverts shall be designed and constructed to specifications provided
3001 through the Department of Fish and Wildlife or a comparable source of expertise;
- 3002 (9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed
3003 away during high water;
- 3004 (10) Roads must be designed and constructed using established flood resistant and design and
3005 construction methods when they may be subject to damage by flood waters;
- 3006 (11) Roads and bridges within floodways must meet the requirements of section
3007 16C.05.36.010 subsection (7) and (2).

3008
3009

16C.06.18 Utility Transmission Lines and Facilities

3010 The following provisions shall apply to the location, construction, or installation of utility
3011 transmission lines and facilities (such as those for wastewater, water, communication, natural
3012 gas, etc.) within a designated hydrologically related critical area:

- 3014 (1) Utility transmission lines and facilities shall be permitted within the stream corridor only
3015 where it is necessary to cross the corridor or where existing development, topography, and
3016 other conditions preclude locations outside the stream corridor.

- 3017 (a) Utility transmission lines and facilities across stream corridors shall be by the most direct
3018 route possible having the least impact to the stream corridor.
- 3019 (b) The construction of utility transmission lines and facilities within a stream corridor shall
3020 be designed and located to ensure minimum disruption to the functional properties
3021 specified under Section 16C.06.05 (Functional Properties) of this title.
- 3022 (2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy
3023 replacement or repair with minimal disturbance to the stream corridor;
- 3024 (3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four
3025 feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is
3026 greater, and for a similar depth below any associated floodway and floodplain to the
3027 maximum extent of potential channel migration as determined by hydrologic analysis;
- 3028 (4) Wherever possible, new aboveground installations shall use available, existing bridge and
3029 utility locations and stream corridor crossings as opposed to creating new locations and
3030 stream corridor crossings;
- 3031 (5) Aboveground electrical support towers and other similar transmission structures shall be
3032 located as far upland as is practical;
- 3033 (6) Transmission support structures shall be located clear of high flood velocities, located in
3034 areas of minimum flood depth which require the least floodproofing, and shall be adequately
3035 floodproofed;
- 3036 (7) Underground utility transmission lines shall be constructed so they do not alter, intercept or
3037 dewater groundwater patterns that support streams, wetlands and hyporheic flow;;
- 3038 (8) All new and replacement water supply systems and wastewater systems within a special
3039 flood hazard area must meet the requirements of 16C.05.28.010(b) (re: infiltration or
3040 discharge into or out of the system);
- 3041 (9) Utility transmission lines within the Floodway Fringe shall meet the standards of
3042 16C.05.32.010 (2);
- 3043 (10) Utility transmission lines within the Floodway shall meet the standards of
3044 16C.05.36.010(2).

3045

3046 **16C.06.19 Shore Stabilization**

- 3047 (1) The following provisions shall apply to shore stabilization projects:
3048 Shore stabilization projects shall be allowed only where there is evidence of erosion which
3049 clearly represents a threat to existing property, structures, or facilities, and which
3050 stabilization will not jeopardize other upstream or downstream properties;
- 3051 (2) Stabilization projects shall be developed under the supervision of, or in consultation with,
3052 agencies or professionals with appropriate expertise;
- 3053 (3) Stabilization projects shall be confined to the minimum protective measures necessary to
3054 protect the threatened property;
- 3055 (4) The use of fill to restore lost land may accompany stabilization work, provided the resultant
3056 shore does not extend beyond the new ordinary high water mark, finished grades are
3057 consistent with abutting properties, a restoration plan is approved for the area, and the fill
3058 material is in compliance with Section 16C.06.21 (Filling);
- 3059 (5) Stabilization projects shall use design, material, and construction alternatives that do not
3060 require high or continuous maintenance and which prevent or minimize the need for
3061 subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable
3062 debris are not to be used in shore stabilization projects;

- 3063 (6) Alternative Preferences. Vegetation, berms, bioengineering techniques, and other
3064 nonstructural alternatives which preserve the natural character of the shore shall be preferred
3065 over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization.
3066 Riprap using rock or other natural materials shall be preferred over concrete revetments,
3067 bulkheads, breakwaters, and other structural stabilization;
- 3068 (7) Applications to construct or enlarge dikes or levees shall meet the requirements of
3069 16C.05.36.010(6);
- 3070 (8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the
3071 shore;
- 3072 (9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or
3073 other solid construction methods;
- 3074 (10) All new flood control projects shall define maintenance responsibilities and a funding
3075 source for operations, maintenance, and repairs for the life of the project.
3076

3077 **16C.06.20 Dredging and Excavation**

3078 The following provisions shall apply to dredging and excavation within a designated
3079 hydrologically related critical area:

- 3080 (1) Dredging in surface waters shall be allowed only where necessary because of existing
3081 navigation needs, habitat restoration or improvement, maintenance or construction of water-
3082 dependent uses;
- 3083 (2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the
3084 intended purpose or use;
- 3085 (3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom
3086 materials shall be preferred over agitation forms of dredging;
- 3087 (4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal
3088 of sediments and other dredge materials;
- 3089 (5) Entries across shore and wetland edges to accomplish dredging or excavation shall be
3090 confined to the minimum area necessary to gain entry and shall be confined to locations with
3091 the least potential for site disturbance and damage;
- 3092 (6) Dredging and excavation shall be scheduled at times having the least impact to fish
3093 spawning, nesting patterns, and other identified natural processes;
- 3094 (7) Dredge spoils are also considered fill, and shall not be deposited within the stream except
3095 where such deposit is in accordance with approved procedures intended to preserve or
3096 enhance wildlife habitat, natural drainage, or other naturally occurring conditions.
3097

3098 **16C.06.21 Filling**

3099 The following provisions shall apply to filling activities within a designated hydrologically
3100 related critical area:

- 3101 (1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction
3102 with water-dependent uses, or an approved reclamation plan under Section 16C.06.23
3103 (Reclamation) or approved compensatory mitigation plan under Section 16C.03.17(13);
- 3104 (2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in
3105 a manner consistent with the policies of this chapter;
- 3106 (3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined
3107 to areas having the least impact to the stream corridor. Other alternatives should be preferred

- 3108 over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-
- 3109 rise methods such as piers, posts, columns, or other methods;
- 3110 (4) Fill in floodplains shall meet the requirements of chapter 16C.05 (Flood Hazards);
- 3111 (5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities;
- 3112 (6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands
- 3113 shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade
- 3114 water quality;
- 3115 (7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting
- 3116 patterns, and other identified natural processes;
- 3117 (8) Fill and finished surface material shall require low maintenance, provide high resistance to
- 3118 erosion, and prevent or control the migration of sediments and other material from the fill
- 3119 area to surrounding water, shore, and wetlands, unless the Washington Department of Fish
- 3120 and Wildlife indicates other options are preferred;
- 3121 (9) Projects that propose fill shall make every effort to acquire fill onsite (also known as
- 3122 compensatory storage) where appropriate;
- 3123 (10) Fill should not obstruct, cut off, or isolate stream corridor features.

3124

3125 **16C.06.22 Commercial Mining of Gravels**

3126 The following provisions shall apply to the commercial mining of gravels within a designated

3127 hydrologically related critical area, except that mining may be regulated as Forest Practices

3128 under this title, (refer to those relevant sections):

- 3129 (1) Prior to the authorization of a commercial gravel mining operation, the project proponent
- 3130 shall provide maps to scale which illustrate the following:
- 3131 (a) The extent to which gravel excavation and processing will affect or modify existing
- 3132 stream corridor features, including existing riparian vegetation;
- 3133 (b) The location, extent and size in acreage of any pond, lake, or feature that will be created
- 3134 as a result of mining excavation;
- 3135 (c) The description, location, and extent of any proposed subsequent use that would be
- 3136 different than existing uses.
- 3137 (2) Wherever feasible, the operations and any subsequent use or uses shall not cause permanent
- 3138 impairment or loss of floodwater storage, wetland, or other stream corridor features.
- 3139 Mitigation shall provide for the feature's replacement at equal value;
- 3140 (3) Any surface mining allowed within the floodway shall meet the standards of
- 3141 16C.05.36.010(1);
- 3142 (4) Except where authorized by Yakima County in consultation with the State Department of
- 3143 Fish and Wildlife and Department of Ecology, the following shall apply:
- 3144 (a) The excavation zone for the removal of gravels shall be located a minimum of one
- 3145 hundred feet upland from the ordinary high water mark (OHWM) of the stream channel;
- 3146 (b) Equipment shall not be operated, stored, refueled, or provided maintenance within one
- 3147 hundred feet of the OHWM;
- 3148 (c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within
- 3149 one hundred feet of the OHWM.
- 3150 (5) Mining proposals shall be consistent with the Washington Department of Natural Resources
- 3151 Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

3152

3153 **16C.06.23 Reclamation**

3154 The following guidelines shall apply to the reclamation of disturbed sites resulting from
3155 development activities within a designated hydrologically related critical area:
3156 (1) Development, construction, or uses shall include the timely restoration of disturbed features
3157 to a natural condition or to a stabilized condition that prevents degradation within the stream
3158 corridor;
3159 (2) Large-scale projects or projects extending over several months shall be phased to allow
3160 reclamation of areas where work or operations have been completed;
3161 (3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season,
3162 and other seasonal variables that influence restoration and recovery;
3163 (4) Topography shall be finished to grades, elevations, and contours consistent with natural
3164 conditions in adjacent and surrounding areas;
3165 (5) Where existing development and construction prevent the return of a site to its natural
3166 condition, sites may be finished to conditions comparable to surrounding properties provided
3167 suitable protective measures are used to prevent stream corridor degradation;
3168 (6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the
3169 materials involved;
3170 (7) The replacement or enhancement of vegetation within wetlands and required vegetative
3171 buffers shall use naturally occurring, native plant species. In other parts of the stream
3172 corridor, naturally occurring, native plant species shall be used, unless a showing of good
3173 cause acceptable to the Administrative Official is provided, in which case self-maintaining or
3174 low-maintenance plant species compatible with native vegetation shall be preferred over non-
3175 native and high-maintenance species.
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Chapter 16C.07
WETLANDS

Sections:

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

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

16C.07.02 Designating and Mapping

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

16C.07.03 Protection Approach

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

3223 **16C.07.40 Wetland Functions and Rating**

3224 (1) Wetlands are unique landscape features that are the interface between the aquatic and
3225 terrestrial environments. Wetlands provide the following functions:

- 3226 (a) Biogeochemical functions, which are related to trapping and transforming chemicals and
3227 include functions that improve water quality in the watershed such as: nutrient retention
3228 and transformation, sediment retention, metals and toxics retention, and transformation;
3229 (b) Hydrologic functions, which are related to maintaining the water regime in a watershed,
3230 such as: flood flow attenuation, decreasing erosion, groundwater recharge;
3231 (c) Food web and habitat functions, which includes habitat for: invertebrates, amphibians,
3232 anadromous fish, resident fish, birds, mammals.

3233 (2) Wetlands shall be rated based on categories that reflect the functions and values of each
3234 wetland. Wetland categories shall be based on the criteria provided in the *Washington State*
3235 *Wetland Rating System for Eastern Washington*, revised August 2004 (Ecology Publication
3236 #04-06-15 - <http://www.ecy.wa.gov/pubs/0406015.pdf>) as determined using the appropriate
3237 rating forms contained in that publication. These categories are summarized as follows:

3238 (a) Category I wetlands are those that represent a unique or rare wetland type, are more
3239 sensitive to disturbance than most wetlands, are relatively undisturbed and contain
3240 ecological attributes that are impossible or too difficult to replace within a human
3241 lifetime, and provide a high level of functions. Generally, these wetlands are not
3242 common and make up a small percentage of the wetlands within Yakima County. The
3243 following types of wetlands are Category I:

- 3244 i) Alkali wetlands;
3245 ii) Natural Heritage Wetlands - Wetlands that are identified by scientists of the
3246 Washington Department of Natural Resources Natural Heritage Program as high
3247 quality, relatively undisturbed wetlands, or wetlands that support state Threatened, or
3248 Endangered plant species;
3249 iii) Bogs;
3250 iv) Mature and old-growth forested wetlands with native slow growing trees, which
3251 include Western Red Cedar (*Thuja plicata*), Alaska Yellow Cedar (*Chamaecyparis*
3252 *nootkatensis*), pine species (mostly White pine - *Pinus monticola*), Western Hemlock
3253 (*Tsuga heterophylla*), Oregon White Oak (*Quercus garryana*) and Englemann Spruce
3254 (*Picea engelmannii*);
3255 v) Forested wetlands with stands of Aspen;
3256 vi) Wetlands scoring 70 points or more (out of 100) in the Eastern Washington Wetland
3257 Rating System.

3258 (b) Category II wetlands are difficult, though not impossible, to replace, and provide high
3259 levels of some functions. These wetlands occur more commonly than Category I
3260 wetlands, but still need a relatively high level of protection. Category II wetlands include:

- 3261 i) Forested wetlands in the floodplains of rivers;
3262 ii) Mature and old-growth forested wetlands with native fast growing trees, which
3263 include Alders (Red - *Alnus rubra*, Thin leaf - *A. tenuifolia*), Cottonwoods (Narrow
3264 leaf - *Populus angustifolia*, Black - *P. balsamifera*), Willows (Peach leaf - *Salix*
3265 *amygdaloides*, Sitka - *S. sitchensis*, Pacific - *S. lasiandra*); Aspen (*Populus*
3266 *tremuloides*); or Water Birch (*Betula occidentalis*)
3267 iii) Vernal pools;

- 3268 iv) Wetlands scoring between 51-69 points (out of 100) in the Eastern Washington
 3269 Wetland Rating System.
- 3270 (c) Category III wetlands are often smaller, less diverse and/or more isolated from other
 3271 natural resources in the landscape than Category II wetlands. Category III wetlands
 3272 include:
- 3273 i) vernal pools that are isolated, and
 3274 ii) wetlands with a moderate level of functions (scoring between 30 -50 points) in the
 3275 Eastern Washington Wetland Rating System.
- 3276 (d) Category IV wetlands have the lowest levels of functions, scoring less than 30 points in
 3277 the Eastern Washington Wetland Rating System, and are often heavily disturbed. These
 3278 are wetlands that should be able to be replaced, and in some cases be improved. These
 3279 wetlands may provide some important functions, and also need to be protected.
- 3280 (3) The wetland rating categories as described in section (2), above, shall be applied to projects
 3281 which are submitted on or after the date of adoption of these provisions. The wetlands shall
 3282 be rated as they exist on the day of project application submission, as the wetland naturally
 3283 changes thereafter, or as the wetland changes in accordance with permitted activities.
 3284 However, illegal modifications to wetlands which have been made since the original
 3285 adoption of the Critical Areas Ordinance (YCC Title 16A 1995) shall not be considered when
 3286 rating the wetland. Information regarding the original condition of illegally modified
 3287 wetlands that can not be discerned from aerial photographs or other reliable information
 3288 sources, which is needed to complete the *Eastern Washington Wetland Rating System* data
 3289 sheets, shall use the highest appropriate points value within each missing data field of the
 3290 rating sheet to complete the rating.

3291
 3292 **16C.07.05 Compensatory Mitigation Requirements**

3293 Projects that propose to compensate for wetland acreage and/or functions are subject to State and
 3294 Federal regulations. Compensatory mitigation for alterations to wetlands shall provide no net
 3295 loss of wetland functions and values, and must be consistent with the Mitigation Plan
 3296 Requirements in section 16C.03.17 (13) (Compensatory Mitigation Plans). The following
 3297 guidance documents were developed to assist applicants in meeting the regulations and
 3298 requirements.

- 3299 (1) Compensatory mitigation plans must be consistent with *Guidance on Wetland Mitigation in*
 3300 *Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and*
 3301 *Proposals* or as revised (Washington State Department of Ecology, U.S. Army Corps of
 3302 Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology
 3303 publication number 04-06-013B -
 3304 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).
- 3305 (2) Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent
 3306 with "*Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing*
 3307 *Wetlands - Appendix 8-D- Section 8-D3*" or as revised (Washington State Department of
 3308 Ecology. Publication number 05-06-008 -
 3309 http://www.ecy.wa.gov/programs/sea/bas_wetlands/volume2final.html).

3310
 3311 **16C.07.06 Wetland Mitigation Banks**

- 3312 (1) Credits from a wetland mitigation bank may be approved for use as compensation for
 3313 unavoidable impacts to wetlands when:

- 3314 (a) The bank is certified under RCW 90.84 and its administrative rules WAC 173-700;
3315 (b) The Administrative Official determines that the wetland mitigation bank provides
3316 appropriate compensation for the authorized impacts; and
3317 (c) The proposed use of credits is consistent with the terms and conditions of the bank's
3318 certification.
- 3319 (2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios
3320 specified in the bank's certification.
- 3321 (3) Credits from a certified wetland mitigation bank may be used to compensate for impacts
3322 located within the service area specified in the bank's certification. In some cases, bank
3323 service areas may include portions of more than one adjacent drainage basin for specific
3324 wetland functions.
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Chapter 16C.08
GEOLOGICALLY HAZARDOUS AREAS

Sections:

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

16C.08.01 Purpose and Intent

- (1) Geologically hazardous areas include those areas susceptible to erosion, sliding, earthquake or other geological events. They pose a threat to the health and safety of the citizens of Yakima County when incompatible development is sited in areas of significant hazard. Some risks due to geologic hazards might be capable of mitigation through engineering, design, or modified construction standards so the level of risk is reduced to an acceptable level. However, when mitigation is not feasible, development within geologically hazardous areas is best avoided.
- (2) The purposes of this chapter are to:
 - (a) Minimize risks to public health and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas;
 - (b) Maintain natural geological processes while protecting existing and new development;
 - (c) Establish review procedures for development proposals in geologically hazardous areas.

16C.08.02 Mapping and Designation

- (1) Geologically hazardous areas are areas that are susceptible to one or more of the following types of hazards, based on WAC 365-190-080 (4)(b) through (h):
 - (a) Erosion hazards;
 - (b) Landslide hazards, which in the Yakima County inventory includes:
 - (i) oversteepened slope hazards;
 - (ii) alluvial fan/flash flooding hazards;
 - (iii) avalanche hazards, and;
 - (iiii) stream undercutting hazards;
 - (c) Seismic hazards (referred to below as earthquake hazards);
 - (d) Volcanic hazards;
- (2) The approximate location and extent of **Erosion hazard areas** are shown on the County’s critical area map titled “Erosion Hazard Areas of Yakima County”. Erosion hazard areas were identified by using the “*Soil Survey of Yakima County Area, Washington*” and the “*Soil Survey of Yakima Indian Reservation Irrigated Area, Washington, Part of Yakima County*”. The analysis utilized the general soil map unit descriptions of severe and very severe hazard of water erosion.
- (3) The approximate location and extent of **Geologically Hazardous Areas** are shown on the County’s critical area map titled “Geologically Hazardous Areas of Yakima County”. The following geologically hazardous areas, with the corresponding map code in parenthesis, are

3371 mapped and classified using the stated criteria based on WAC 365-190-080(4) (b) through
3372 (h):

3373 (a) Landslide hazard areas (LS) – These include places where landslides, debris flows, or
3374 slumps have already occurred. Where sliding is presumed to have occurred within 10,000
3375 years or less is shown as High Risk (LS3) on the map. Slides thought to be older than
3376 10,000 years but still capable of movement are shown as Intermediate Risk (LS2). Areas
3377 where slides are absent are unlabeled and combined with other Low Risk areas.

3378 (i) Oversteepened slope hazard areas (OS) - These include areas with slopes steep
3379 enough to create potential problems. High risk areas (OS3) have a high potential to
3380 fail, and include slopes greater than 40%, and consist of areas of rock fall, creep, and
3381 places underlain with unstable materials. Intermediate Risk areas (OS2) are less likely
3382 to fail but are still potentially hazardous. This category also includes some slopes
3383 between 15 and 40%. Low Risk areas, unlikely to fail, are unlabeled and combined
3384 with other Low Risk categories.

3385 (ii) Alluvial fan/flash flooding hazard areas (AF) - These are areas where flash flooding
3386 can occur, and are often associated with inundation by debris from flooding. They
3387 include alluvial fans, canyons, gullies, and small streams where catastrophic flooding
3388 can occur. They do not include all areas where flash flooding may occur with Yakima
3389 County. Flooding may also occur in larger streams and rivers, but these are depicted
3390 in the "Flood Insurance Study for the Unincorporated Areas of Yakima County,"
3391 dated March 2, 1998, with accompanying Flood Insurance Rate Maps (FIRMs) and
3392 Flood Boundary and Floodway Maps, and any amendments which may thereafter be
3393 made by the Federal Emergency Management Agency, rather than on the
3394 Geologically Hazardous Areas Map. High Risk areas (AF3) are those most likely to
3395 experience flooding. These areas usually involve larger drainage areas, easily eroded
3396 sediments, and steeper gradients. Intermediate Risk areas (AF2) have some potential
3397 for flash flooding but involve smaller drainages and flatter slopes. Low Risk areas are
3398 where flash flooding is unlikely, are unlabeled and combined with other Low Risk
3399 areas on the map.

3400 (iii)Avalanche risk hazard areas (AR) - Areas of avalanche hazards are limited (within
3401 the mapped boundaries) to areas near the Cascade Crest. High Risk areas (AF3) are
3402 those in areas of high snowfall where avalanche scars are visible and slopes are steep
3403 to moderately steep. These areas could also be rated OS3. Intermediate Risk areas
3404 (AF2) are usually adjacent to AF3 areas but where vegetation is still in place and
3405 slopes are moderate. AF2 and AF3 areas are mapped on the basis of aerial
3406 photography and observed scars. Climatic data (snowfall, wind direction, etc) are
3407 necessary for more detailed mapping. Low Risk areas, where avalanches are unlikely,
3408 are unlabeled and combined with other Low Risk geologic hazards.

3409 (iv)Stream undercutting hazard areas (SU) - These areas are confined to banks near main
3410 streams and rivers where undercutting of soft materials may result. High Risk areas
3411 (SU3) include steep banks of soft material adjacent to present stream courses.
3412 Intermediate Risk areas (SU2) are banks along the edge of a flood plain but away
3413 from the present river course. Low Risk areas are unlabeled and combined with other
3414 Low Risk areas on the maps.

3415 (b) Earthquake activity hazard areas (EA) - Recorded earthquake activity in Yakima County
3416 is mostly marked by low magnitude events and thus low seismic risk. One exception is an

- 3417 area along Toppenish Ridge where Holocene faulting may have produced earthquakes of
 3418 as much as magnitude 7. Zones of surficial fault scarps are shown on High Risk areas
 3419 (EA3) while areas adjacent to the scarps are assigned Intermediate Risk (EA2). The rest
 3420 of the county is Low Risk, are unlabeled, and combined with other low risk hazards.
- 3421 (c) Suspected geologic hazard areas (SUS) – These are areas for which detailed geologic
 3422 mapping is lacking but preliminary data indicate a potential hazard. No risk assessment
 3423 (1-2-3) is given for these areas. Most are probably OS or LS hazards.
 - 3424 (d) Risk unknown hazard areas (UNK) - In these areas geologic mapping is lacking or is
 3425 insufficient to make a determination. All of these areas are associated with other
 3426 classified geologic hazards, and most are located in remote areas of Yakima County.
- 3427 (4) Volcanic Hazard Areas are not mapped but are defined as areas subject to pyroclastic
 3428 (formed by volcanic explosion) flows, lava flows and inundation by debris flows, mudflows
 3429 or related flooding resulting from volcanic activity. Volcanic Hazard Areas in Yakima
 3430 County are limited to pyroclastic (ash) deposits. While Yakima County contains a portion of
 3431 Mt Adams and is in close proximity to Mt Rainer, and Mt St. Helens, the threat of volcanic
 3432 hazards is minimal and limited to ash deposition. The more devastating effects of volcanic
 3433 activity such as lava flows, and lahars (volcanic landslide or mudflow) are not possible due to
 3434 intervening ridges. No specific protection requirements are identified for volcanic hazard
 3435 areas.
- 3436 (5) This chapter does not imply that land outside mapped geologically hazardous areas or uses
 3437 permitted within such areas will be without risk. This chapter shall not create liability on the
 3438 part of Yakima County, any officer, or employee thereof for any damages that result from
 3439 reliance on this chapter or any administrative decision lawfully made hereunder.

3440
 3441 **16C.08.03 Geologically Hazardous Areas Protection Approach**

- 3442 (1) Erosion hazard areas – Protection measures for erosion hazard areas will be accomplished by
 3443 implementing the regulatory standards for erosion and drainage control required under YCC
 3444 Title 13 (Building Code). Any future stormwater program erosion control measures that may
 3445 be formally adopted by the Board of County Commissioners shall supersede YCC Title 13
 3446 erosion control requirements. Standards to meet YCC Title 13 requirements can be met by
 3447 the application of the Best Management Practices (BMPs) in the Eastern Washington
 3448 Stormwater Manual (WDOE Publication number 04-10-076) or equivalent manual adopted
 3449 by Yakima County, or any other approved manual deemed appropriate by the Building
 3450 Official, including but not limited to applicable Natural Resource Conservation Service
 3451 (NRCS) Field Office Technical Guide (FOTG) BMP’s and the Washington State Department
 3452 of Transportation Highway Runoff Manual. Application of the Environmental Protection
 3453 Agency (EPA) “Construction Rainfall Erosivity Waiver” is at the discretion of the Building
 3454 Official on a case by case basis.
- 3455 (2) Landslide hazard areas - Protection measures for landslide hazard areas will be accomplished
 3456 through the review process of 16C.08.04 (Development Review Procedure for Geologically
 3457 Hazardous Areas), by implementing the development standards of 16C.08.05 (General
 3458 Protection Requirements), and by implementing the appropriate sections of the International
 3459 Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design;
 3460 Section 18 Soils and Foundations; and, Appendix J Grading).
- 3461 (3) Alluvial fan/flash flooding hazard areas - Protection measures for alluvial fan/flash flooding
 3462 hazard areas will be accomplished through the review process of 16C.08.04 (Development

- 3463 Review Procedure for Geologically Hazardous Areas), by implementing the development
 3464 standards of 16C.08.05 (General Protection Requirements), and by implementing the
 3465 appropriate sections of the International Building Code (IBC) as adopted in YCC Title 13
 3466 (currently Section 16 Structural Design; Section 18 Soils and Foundations; Appendix J
 3467 Grading; and, Flood Resistant Design and Construction (ASCE-24-98)).
- 3468 (4) Stream undercutting hazard areas - Protection measures for stream undercutting hazard areas
 3469 will be accomplished by Critical Areas review for flood hazards, streams, and Shoreline
 3470 jurisdiction, in addition to implementing the appropriate sections of the International
 3471 Building Code (IBC) as adopted in YCC Title 13 (Flood Resistant Design and Construction
 3472 (ASCE-24-98)).
- 3473 (5) Avalanche hazard areas - Protection measures for avalanche hazard areas will be
 3474 accomplished through the review process of 16C.08.04 (Development Review Procedure for
 3475 Geologically Hazardous Areas), by implementing the development standards of 16C.08.05
 3476 (General Protection Requirements), and by implementing the appropriate sections of the
 3477 International Building Code (IBC) as adopted in YCC Title 13 (currently Section 16
 3478 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- 3479 (6) Oversteepened slope hazard areas - Protection measures for oversteepened slope hazard areas
 3480 will be accomplished through the review process of 16C.08.04 (Development Review
 3481 Procedure for Geologically Hazardous Areas), by implementing the development standards
 3482 of 16C.08.05 (General Protection Requirements), and by implementing the appropriate
 3483 sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently
 3484 Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- 3485 (7) Earthquake/Seismic hazard area protection standards - Protection measures for
 3486 earthquake/Seismic hazard areas will be accomplished by implementing the appropriate
 3487 sections of the International Building Code (IBC) as adopted in YCC Title 13 (currently
 3488 Section 16 Structural Design; Section 18 Soils and Foundations; and, Appendix J Grading).
- 3489 (8) Suspected geologic hazard areas and Risk unknown hazard areas - Protection measures for
 3490 suspected geologic hazard areas and risk unknown hazard areas will be accomplished
 3491 through the review process of 16C.08.04 (Development Review Procedure for Geologically
 3492 Hazardous Areas), by implementing the development standards of 16C.08.05 (General
 3493 Protection Requirements), and by implementing the appropriate sections of the International
 3494 Building Code (IBC) as adopted in YCC Title 13 (currently Section 16 Structural Design;
 3495 Section 18 Soils and Foundations; and, Appendix J Grading).

3496
 3497 **16C.08.04 Development Review Procedure for Geologically Hazardous Areas**

- 3498 (1) The Administrative Official shall make a determination of hazard to confirm whether the
 3499 development or its associated facilities (building site, access roads, limits of grading/
 3500 excavation/ filling, retaining walls, septic drainfields, landscaping, etc.):
- 3501 (a) are located within a mapped geologically hazardous area;
 - 3502 (b) are abutting, or adjacent to a mapped geologically hazardous area and may result in or
 3503 contribute to an increase in hazard, or pose a risk to life and property on or off the site;
 - 3504 (c) are located within a distance from the base of an adjacent landslide hazard area equal to
 3505 the vertical relief of said hazard area;
 - 3506 (d) are located within the potential run-out path of a mapped avalanche hazard.
- 3507 (2) Developments that receive an affirmative determination of hazard by the Administrative
 3508 Official under (1) above, must conduct a geologic hazard report as provided in 16C.03.18(4)

- 3509 (Supplemental Report Requirements – Geologically Hazardous Areas), which may be part of
3510 a geo-technical report required under additional review below.
- 3511 (a) If the geologic hazard report determines no hazard exists or that the project area lies
3512 outside the hazard, then no Geologic Hazard review is needed.
- 3513 (b) The Administrative Official is authorized to waive further geologic hazard review for
3514 oversteepened slope hazards on a determination that the hazards identified in the geologic
3515 hazard report will be adequately mitigated under grading or construction permits.
- 3516 (3) Developments that receive an affirmative determination of hazard, but do not meet the
3517 provisions of paragraph 2a or 2b above, must:
- 3518 (a) Obtain a Critical Areas Development Authorization under 16C.03 (Application and
3519 Review Procedures);
- 3520 (b) Submit a geo-technical report that is suitable for obtaining the grading and construction
3521 permits that will be required for development. The geo-technical report should
3522 incorporate the submitted assessment, include the design of all facilities and include a
3523 description and analysis of the risk associated with the measures proposed to mitigate the
3524 hazards, ensure public safety, and protect property and other critical areas, and;
- 3525 (c) Be consistent with the General Protection Requirements of section 16C.08.05 (General
3526 Protection Requirements).

3527
3528 **16C.08.05 General Protection Requirements**

- 3529 (1) Grading, construction, and development and their associated facilities shall not be located in
3530 a geologically hazardous area, or any associated setback for the project recommended by the
3531 geo-technical report, unless the applicant demonstrates that the development is structurally
3532 safe from the potential hazard, and that the development will not increase the hazard risk
3533 onsite or off-site.
- 3534 (2) Development shall be directed toward portions of parcels, or parcels under contiguous
3535 ownership, that are at the least risk of hazard in preference to lands with higher risk, unless
3536 determined to be infeasible in the geo-technical report.
- 3537 (3) The geo-technical report shall recommend methods to ensure the information and education
3538 about the hazard and any recommended buildable area for future landowners over the long
3539 term.
- 3540 (4) The applicable requirements of grading and construction permits for developments in
3541 hazardous areas must be included in the development proposal and geo-technical report.

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Chapter 16C.09

CRITICAL AQUIFER RECHARGE AREAS (CARA)

Sections:

- 16C.09.01 Purpose and Intent
- 16C.09.02 Designation
- 16C.09.03 Mapping
- 16C.09.04 Submittal Requirements
- 16C.09.05 Performance Standards – General Requirements
- 16C.09.06 Performance Standards – Specific Uses
- 16C.09.07 Uses Prohibited From Critical Aquifer Recharge Areas

16C.09.01 Purpose and Intent

- (1) The Growth Management Act (RCW 36.70A) requires local jurisdictions to protect, through designation and protection, areas with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water. These areas are referred to as Critical Aquifer Recharge Areas (CARA) in this title.
- (2) Potable water is an essential life sustaining element. Much of Yakima County’s drinking water comes from groundwater supplies. Once groundwater is contaminated it can be difficult, costly, and sometimes impossible to clean up. In some cases, the quality of groundwater in an aquifer is inextricably linked to its recharge area
- (3) The intent of this chapter is to:
 - (a) Preserve, protect, and conserve Yakima County's CARA from contamination;
 - (b) Establish a protection approach that emphasizes the use of existing laws and regulations, and minimizes the use of new regulations.
- (4) It is not the intent of this ordinance to:
 - (a) Regulate everyday activities (including the use of potentially hazardous substances that are used according to State and Federal regulations and according to label specifications);
 - (b) Enforce or prevent illegal activities;
 - (c) Regulate land uses that use or store small volumes of hazardous substances (including in-field agricultural chemical storage facilities, which do not require permits, or are already covered under existing state, federal, or county review processes and have detailed permit review);
 - (d) Establish additional review for septic systems, which are regulated by the Washington Department of Health and Yakima County Health District as mandated by WAC 246-270, 271, 272, 272A, 272B, 272C and 273;
 - (e) Establish additional review for stormwater control, which are covered under existing County YCC Title 12.10 as required by Washington State Department of Ecology’s Eastern Washington Phase II Municipal Stormwater Permit, or;
 - (f) Require review for uses that do not need building permits and/or zoning review.

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

3588 **16C.09.02 Designation**

3589 Critical aquifer recharge areas (CARA) are those areas with a critical recharging effect on
3590 aquifers used for potable water as defined by WAC 365-190-030(2). CARA have prevailing
3591 geologic conditions associated with infiltration rates that create a high potential for
3592 contamination of ground water resources or contribute significantly to the replenishment of
3593 ground water. The following areas have been identified based on local conditions.

- 3594 (1) Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of
3595 the ten-year time of ground water travel, or boundaries established using alternate criteria
3596 approved by the Department of Health in those settings where ground water time of travel is
3597 not a reasonable delineation criterion, in accordance with WAC 246-290-135
- 3598 (2) Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S.
3599 Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.
- 3600 (3) Susceptible Ground Water Management Areas. Susceptible ground water management areas
3601 are areas that have been designated as moderately or highly vulnerable or susceptible in an
3602 adopted ground water management program developed pursuant to Chapter 173-100 WAC.
- 3603 (4) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-
3604 090.
- 3605 (5) Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are
3606 moderately or highly vulnerable to degradation or depletion because of hydrogeologic
3607 characteristics are those areas delineated by a hydrogeologic study prepared in accordance
3608 with the State Department of Ecology guidelines.
- 3609 (6) Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas
3610 moderately or highly susceptible to degradation or depletion because of hydrogeologic
3611 characteristics are those areas meeting the criteria established by the State Department of
3612 Ecology.

3613
3614

3615 **16C.09.03 Mapping**

3616 (1) **Mapping Methodology** – The CARA are depicted in the map titled “Critical Aquifer
3617 Recharge Areas of Yakima County”. The CARA map was developed through a geographic
3618 information system (GIS) analysis using the methodology outlined in the Washington
3619 Department of Ecology -“Guidance Document” (Publication 05-10-028). This map depicts
3620 the general location of the critical aquifer recharge areas designated in YCC 16C.09.02.
3621 Yakima County has developed a GIS database of the CARA map that shows the location and
3622 extent of critical aquifer recharge areas. This database will be used by the County to
3623 determine whether proposed developments could potentially impact CARA. All applications
3624 for development within the County that are located within a mapped CARA will be required
3625 to follow the performance standards of this chapter. The CARA map estimates areas of
3626 moderate, high and extreme susceptibility to contamination, in addition to wellhead
3627 protection areas. To characterize hydrogeologic susceptibility of the recharge area to
3628 contamination, the GIS analysis used the following physical characteristics:

- 3629 (a) Depth to ground water;
3630 (b) Soil (texture, permeability, and contaminant attenuation properties);
3631 (c) Geologic material permeability;
3632 (d) Recharge (amount of water applied to the land surface, including precipitation and
3633 irrigation).

3634 (2) **Wellhead Protection Areas** - The CARA map includes those Wellhead Protection Areas for
3635 which the County has maps. Wellhead Protection Areas are required for all Class A public
3636 water systems in the State of Washington. The determination of a wellhead protection area is
3637 based upon the time of travel of a water particle from its source to the well. Water purveyors
3638 collect site specific information to determine the susceptibility of the water source to surface
3639 sources of contamination. Water sources are ranked by the Washington State Department of
3640 Health with a high, moderate or low susceptibility to surface contamination. Wellhead
3641 protection areas are defined by the boundaries of the ten (10) year time of ground water
3642 travel, in accordance with WAC 246-290-135. For purposes of this chapter, all wellhead
3643 protection areas shall be considered highly susceptible.

3644 **16C.09.04 Submittal Requirements.**

- 3645 (1) Applications for any development activity or division of land which requires review by
3646 Yakima County and which is located within a mapped Critical Aquifer Recharge Area or
3647 Wellhead Protection Area shall be reviewed by the Administrative Official to determine
3648 whether hazardous materials (see definitions) will be used, stored, transported, or disposed of
3649 in connection with the proposed activity. If there is insufficient information to determine
3650 whether hazardous materials will be used, the Administrative Official may request additional
3651 information, in addition to the submittal requirements outlined in 16C.03.
- 3652 (2) The Administrative Official shall make the following determination:
- 3653 (a) No hazardous materials are involved.
 - 3654 (b) Hazardous materials are involved; however, existing laws or regulations adequately
3655 mitigate any potential impact, and documentation is provided to demonstrate compliance.
 - 3656 (c) Hazardous materials are involved and the proposal has the potential to significantly
3657 impact Critical Aquifer Recharge and Wellhead Protection Areas; however, sufficient
3658 information is not available to evaluate the potential impact of contamination. The
3659 County may require a Hydrogeologic Report to be prepared by a qualified groundwater
3660 scientist in order to determine the potential impacts of contamination on the aquifer.

3661 **16C.09.06 Performance Standards – Specific Uses.**

- 3662 (1) Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area
3663 must comply with local building code requirements and must conform to the following
3664 requirements:
- 3665 (a) Underground Tanks. All new underground storage facilities proposed for use in the
3666 storage of hazardous substances or hazardous wastes shall be designed and constructed so
3667 as to:
 - 3668 (i) Prevent releases due to corrosion or structural failure for the operational life of the
3669 tank;
 - 3670 (ii) Be protected against corrosion, constructed of noncorrosive material, steel clad with a
3671 noncorrosive material, or designed to include a secondary containment system to
3672 prevent the release or threatened release of any stored substances; and
 - 3673 (iii) Use material in the construction or lining of the tank that is compatible with the
3674 substance to be stored.
 - 3675 (b) Aboveground Tanks. All new aboveground storage facilities proposed for use in the
3676 storage of hazardous substances or hazardous wastes shall be designed and constructed so
3677 as to:

- 3678 (i) Not allow the release of a hazardous substance to the ground, groundwaters, or
- 3679 surface waters;
- 3680 (ii) Have a primary containment area enclosing or underlying the tank or part thereof; and
- 3681 (iii) Have a secondary containment system either built into the tank structure or a dike
- 3682 system built outside the tank for all tanks.
- 3683 (2) Vehicle Repair and Servicing.
- 3684 (a) Vehicle repair and servicing must be conducted over impermeable pads and within a
- 3685 covered structure capable of withstanding normally expected weather conditions.
- 3686 Chemicals used in the process of vehicle repair and servicing must be stored in a manner
- 3687 that protects them from weather and provides containment should leaks occur.
- 3688 (b) No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle
- 3689 repair and servicing. Dry wells existing on the site prior to facility establishment must be
- 3690 abandoned using techniques approved by the State Department of Ecology prior to
- 3691 commencement of the proposed activity.
- 3692 (3) Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides,
- 3693 and fertilizers shall not exceed times and rates specified on the packaging.
- 3694 (4) Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for
- 3695 reclaimed water must be in accordance with the adopted water or sewer comprehensive plans
- 3696 that have been approved by the State Departments of Ecology and Health.
- 3697 (a) Use of reclaimed water for surface percolation must meet the groundwater recharge
- 3698 criteria given in RCW 90.46.010(10) and 90.46.080(1). The State Department of Ecology
- 3699 may establish additional discharge limits in accordance with RCW 90.46.080(2).
- 3700 (b) Direct injection must be in accordance with the standards developed by authority of RCW
- 3701 90.46.042.

3702 **16C.09.07 Uses Prohibited from Critical Aquifer Recharge Areas.**

3703 The following activities and uses are prohibited in critical aquifer recharge areas:

- 3704 (1) Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special
- 3705 waste, wood waste and inert and demolition waste landfills;
- 3706 (2) Underground Injection Wells. Class I, III and IV wells and subclasses 5F01, 5D03, 5F04,
- 3707 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
- 3708 (3) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment
- 3709 process to occur over permeable surfaces (both natural and manmade);
- 3710 (4) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or
- 3711 dispose of radioactive substances;
- 3712 (5) Mining. Hard rock; and sand and gravel mining, unless located within the mineral resource
- 3713 designation; and
- 3714 (6) Other Prohibited Uses or Activities.
- 3715 (a) Activities that would significantly reduce the recharge to aquifers currently or potentially
- 3716 used as a potable water source;
- 3717 (b) Activities that would significantly reduce the recharge to aquifers that are a source of
- 3718 significant base flow to a regulated stream.

EXHIBIT A

3719 Upland Wildlife Habitat Conservation Areas

3720

3721 **Sections:**

3722 16C.11.010 Purpose and Intent

3723 16C.11.020 Protection Approach

3724 16C.11.030 Functional Properties

3725 16C.11.040 Upland Wildlife Habitat and Habitats of Local Importance

3726 16C.11.050 Mapping

3727 16C.11.060 Critical Areas Report Requirement

3728 16C.11.070 Upland Wildlife and Habitats of Local Importance Development Standards

3729

3730 **16C.11.010 Purpose and Intent**

3731 (1) Wildlife habitat conservation means land management for maintaining species in suitable
3732 habitats within their natural geographic distribution so that isolated subpopulations are not
3733 created. This does not mean maintaining all individuals of all species at all times, but it does
3734 mean cooperative and coordinated land use planning is critically important (WAC 365-190-
3735 080(5)).

3736 (2) Classify seasonal ranges and habitat elements with which federal and state listed endangered,
3737 threatened and sensitive species have a primary association and which, if altered, may reduce
3738 the likelihood that the species will maintain and reproduce over the long term.

3739 (3) It is the purpose of these provisions to protect, conserve and encourage restoration, where
3740 practical, natural habitats of fish and wildlife species.

3741

3742 **16C.11.020 Protection Approach**

3743 (1) To maintain viable populations of fish and wildlife species, there must be adequate
3744 environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals
3745 at a variety of scales across the landscape. Key factors affecting habitat quality include
3746 fragmentation, the presence of essential resources such as food, water, nest building
3747 materials, the complexity of the environment, and the presence or absence of predator species
3748 and diseases. As a method of linking large habitat areas, migration corridors offer a means
3749 by which to connect publicly protected lands and other intact habitat areas. Yakima County
3750 protects habitat for upland species using the Upland Wildlife Habitat Conservation Area and
3751 associated protections measures described below.

3752 (2) Yakima County has a very high proportion of federal, state and other publicly and tribally
3753 owned land. These lands are generally managed for the conservation of wildlife habitat.
3754 Consequently, one of Yakima County's approaches to protecting all wildlife habitat types is
3755 to rely on the management of these lands by the responsible entity (i.e. US Forest Service,
3756 US Bureau of Land Management, US Department of Defense, Washington Department of
3757 Fish and Wildlife, Washington Department of Natural Resources, Yakima Nation, etc.). The
3758 protection of Larch mountain salamander (*Plethodon larselli*) (State Sensitive, Federal
3759 Species of Concern) and Spotted Owl (*Strix occidentalis*) (State Endangered, Federal
3760 Threatened) habitat is accomplished through this approach, since their habitat of primary
3761 association is located within Federal ownership.

3762 (3) To aid in upland wildlife protection on private lands, Yakima County followed a
3763 methodology utilizing Gap Analysis Program (GAP) data to map wildlife habitat.

3764 Comparison of the map to public lands shows that a small percentage of the mapped area is
3765 within private ownership. An analysis of the privately owned lands showed that they are
3766 largely in remote areas that are undeveloped with no cultivated agriculture. The predominate
3767 land use on these private lands is forest and rangeland. Consequently, part of Yakima
3768 County's approach to protect upland wildlife on private land is to rely on the large lot/low
3769 density provisions of the Remote (40 acre minimum), Forest (80 acre minimum) and
3770 Agriculture (40 acre minimum) zoning districts.

3771 (4) Through the wildlife habitat analysis, habitat for listed state and federal threatened,
3772 endangered, and sensitive species was assessed and incorporated for upland species.
3773 Consequently, Yakima County's approach to protect habitat for listed state and federal
3774 threatened, endangered, and sensitive upland species is to require approval of a standard
3775 development permit, the submittal of a habitat assessment, and where necessary,
3776 development of a management plan consistent with state and/or federal guidelines as outlined
3777 in Section 16C.11.060 and 16C.11.070 below. Protection measures for
3778 Bull Trout (*Salvelinus confluentus*) (State Candidate, Federal Threatened) and Steelhead
3779 (*Oncorhynchus mykiss*) (State Candidate, Federal Threatened) are accomplished by the
3780 standards in chapter 16C.06.

3781

3782 **16C.11.030 Functional Properties**

3783 Wildlife habitat consists of the arrangement of food, water, cover, and space required to meet the
3784 biological needs of an animal. Different wildlife species have different requirements, and these
3785 requirements vary over the course of a year. Wildlife habitat generally includes one or more of
3786 the following functional properties:

- 3787 (a) Reproduction and/or nesting;
- 3788 (b) Resting and refuge;
- 3789 (c) Foraging for food;
- 3790 (d) Dispersal and migration.

3791

3792

3792 **Designation and Mapping**

3793

3794 **16C.11.040 Upland Wildlife Habitat Conservation Areas**

3795 (1) Upland Wildlife Habitat Conservation Areas are those areas within which state or federally
3796 designated endangered, threatened, or sensitive species have a primary association. State
3797 listed species are those native fish and wildlife species legally designated as Endangered
3798 (WAC 232-12-014), Threatened (WAC 232-12-011) or Sensitive (WAC 232-12-011) by the
3799 Washington Fish and Wildlife Commission. Federal listed Threatened, Endangered or
3800 Sensitive species means all species of wildlife listed as such by the United States Secretary
3801 of the Interior or Commerce.

3802 (2) Upland Wildlife Habitat Conservation Areas include State Natural Area Preserves and
3803 Natural Resource Conservation Areas.

3804 (3) Upland Wildlife Habitat Conservation Areas include Species and Habitats of Local
3805 Importance. These are habitats or species that due to their declining population, sensitivity to
3806 habitat manipulation or other values make them important on a local level. Habitats of Local
3807 Importance may include a seasonal range or habitat element with which a given species has a
3808 primary association, and which, if altered, may reduce the likelihood that the species will
3809 maintain and reproduce over the long term.

- 3810 (a) Species and Habitats of Local Importance may be identified, for protection under this
- 3811 title. State or local agencies, individuals or organizations may identify and nominate for
- 3812 consideration specific species and habitats, or a general habitat type, including streams,
- 3813 ponds or other features.
- 3814 (b) Review of a Species and/or Habitat of Local Importance application is a legislative
- 3815 action, and shall be processed during the Comprehensive Plan amendment cycle.
- 3816 (c) Species and/or Habitat of Local Importance applications shall be docketed for official
- 3817 action with the Planning Commission in accordance with section 16B.10.090
- 3818 (Development Regulation Amendments) with no fee requirements.
- 3819 (d) The Planning Commission may convene a best available science committee to ensure the
- 3820 Species and/or Habitat of Local Importance application conforms to RCW 36.70A.172
- 3821 and WAC 365-195-900 through WAC 365-195-925.
- 3822 (e) Species and/or Habitat of Local Importance shall be adopted as appendices to this title.
- 3823 (f) Species and/or Habitat of Local Importance applications shall be reviewed for
- 3824 conformance with subsections (g) and (h) below.
- 3825 (g) Applicants for Species and/or Habitat of Local Importance shall present evidence
- 3826 concerning the criteria set forth in sub-section (h) below, including maps to illustrate the
- 3827 proposal and habitat management recommendations for use in the administration of this
- 3828 chapter, and/or:
- 3829 (h) The review of nominated habitats, and habitats for species of local importance shall
- 3830 consider the following,
- 3831 (i) A seasonal range or habitat element which, if altered, may reduce the likelihood that
- 3832 the species will maintain or reproduce over the long term;
- 3833 (ii) Areas of high relative density or species richness, breeding habitat, winter range, and
- 3834 movement corridors;
- 3835 (iii) Habitat with limited availability or high vulnerability to alteration;
- 3836 (iv) Whether these habitats are already identified and protected under the provisions of
- 3837 this or other county ordinances or state or federal law.

3838
3839 **16C.11.050 Mapping**

- 3840 (1) The approximate location and extent of upland wildlife habitat conservation areas for,
- 3841 Endangered, Threatened and Sensitive species are shown on the County's critical area
- 3842 map titled, "Upland Wildlife Habitat Conservation Areas of Yakima County". This map
- 3843 is to be used as a guide for the county, project applicants and/or property owners, and
- 3844 may be updated as more detailed data becomes available. This map is a reference and
- 3845 does not provide a final critical area designation.
- 3846 (2) The Upland Wildlife Habitat Conservation Area map utilized GAP (Gap Analysis
- 3847 Project) and Department of Fish and Wildlife data. GAP data is derived from satellite
- 3848 imagery and modeling of vegetation and species presence. The wildlife habitat analysis
- 3849 methodology was chosen to protect wildlife from a regional perspective rather than a
- 3850 species-specific perspective, to identify areas of high biodiversity for long-term species
- 3851 survival. The methodology:
- 3852 (a) Uses the richest habitat areas;
- 3853 (b) Includes some habitat for all species;
- 3854 (c) Focuses on large habitat areas that are most remote from human development;
- 3855 (d) Uses publicly owned lands as much as possible;

- 3856 (e) Provides corridor links between blocks of habitat areas using streams, and steep ridge
- 3857 slopes;
- 3858 (f) Considers WDFW Priority Habitat and Species and Wildlife Heritage data to test
- 3859 accuracy, and;
- 3860 (g) Covers threatened endangered and sensitive species on private land.
- 3861

3862 **16C.11.060 Permit and Critical Areas Report Requirement**

- 3863 (1) Developments proposed within an upland wildlife habitat conservation area with which state
- 3864 or federally endangered, threatened, or sensitive species or a species of local importance has
- 3865 a primary association may be required to submit Critical Areas Identification Form and site
- 3866 plan as per 16C.03.02(1). The Administrative Official may require a habitat assessment to be
- 3867 submitted if it is determined that the development proposal could impact the UWHCA. A
- 3868 habitat assessment is an investigation of the project area to evaluate the presence or absence of
- 3869 such species, and areas with which such species has a primary association.
- 3870 (2) In addition to the general critical area report requirements of Section 16C.03.17, habitat
- 3871 assessments and habitat management plans must be prepared by a qualified professional who
- 3872 is a biologist with experience preparing reports for the relevant species and habitat. Critical
- 3873 area reports for two or more types of critical areas must meet the report requirements for each
- 3874 relevant type of critical area.
- 3875 (3) If the habitat assessment determines that such species or habitat area is present on site, and are
- 3876 likely to be impacted by the development proposal, then a standard development permit and
- 3877 management plan are required.
- 3878 (4) If a standard development permit and management plan are required, as determined by the
- 3879 habitat assessment, it shall follow published federal, state, or local management
- 3880 recommendations, including Department of Fish and Wildlife habitat management
- 3881 recommendations, that have been developed for species or habitats located on or adjacent to
- 3882 the project area. Management plans developed by an independent third party shall be
- 3883 provided for review by the Department of Fish and Wildlife or the responsible federal
- 3884 agency. The Administrative Official shall consult with the appropriate agency and consider
- 3885 their comments through the review process.
- 3886

3887 **16C.11.070 Upland Wildlife Habitat Conservation Area Development Standards**

3888 Projects located within an Upland Wildlife Habitat Conservation Area as designated in section

3889 16C.11.040 shall meet the following standards listed below, rather than the development

3890 standards in 16C.06.10 through 16C.06.23 for Hydrologically Related Critical Areas, unless

3891 review is also needed for a Hydrologically Related Critical Areas.

- 3892 (1) Projects shall be designed using management recommendations established for the species or
- 3893 habitat by federal and state agencies, or those adopted for Species and Habitats of Local
- 3894 Importance by Yakima County. The department shall consider the extent such
- 3895 recommendations are used in its decision on the proposal, and may consider
- 3896 recommendations and advice from the agencies with expertise.
- 3897

**YAKIMA COUNTY
 CRITICAL AREAS ORDINANCE
 Appendix A
 Designated Type 2 Stream Corridors**

3898
 3899
 3900
 3901
 3902 The following stream reaches within Yakima County are designated critical areas under the
 3903 Critical Areas Ordinance.
 3904
 3905
 3906 FOUNDATION CREEK: From the mouth of Hacket Canyon (Sec. 13,
 3907 T12N, R14E) downstream to the North Fork
 3908 Ahtanum Creek.
 3909
 3910 LITTLE RATTLESNAKE CREEK: From the Wenatchee National Forest
 3911 boundary (SEC25-TWP15N-RGE15E)
 3912 downstream to mouth at Rattlesnake Creek
 3913 (SEC3-TWP15N-RGE15N).
 3914 MIDDLE FORK AHTANUM CREEK: From the north boundary of Sec, 25, T12N,
 3915 R14E, downstream to the North Fork
 3916 Ahtanum.
 3917
 3918 MULE DRY CREEK: From the east boundary of Sec. 24, T9N,
 3919 R20E, downstream to Satus Creek.
 3920
 3921 NASTY CREEK: From the east boundary of Sec. 32, T13N,
 3922 R15E, downstream to the North Fork
 3923 Ahtanum Creek.
 3924
 3925 NILE CREEK: From the east boundary of Sec. 31, T16N,
 3926 R15E, downstream to the Naches River.
 3927
 3928 NORTH FORK AHTANUM CREEK: From east boundary of Sec. 20, T12N,
 3929 R14E, downstream to shoreline jurisdiction
 3930 (Sec. 22, T12N, R14E).
 3931
 3932 REYNOLDS CREEK: From the east boundary of Sec. 16, T13N,
 3933 R15E, to South Fork Cowiche Creek (Sec.
 3934 18, T13N, R16E).
 3935
 3936 ROCK CREEK: From the south boundary of Sec. 8, T16N,
 3937 R15E, downstream to the Naches River.
 3938
 3939 SOUTH FORK COWICHE CREEK: From the north boundary of Sec. 29, T13N,
 3940 R15E, downstream to shoreline jurisdiction
 3941 (Sec. 33, T14N, R16E).
 3942

| | | |
|------|---------------------------|--|
| 3943 | NORTH FORK AHTANUM CREEK: | From east boundary of Sec. 20, T12N, |
| 3944 | | R14E, downstream to shoreline jurisdiction |
| 3945 | | (Sec. 22, T12N, R14E). |
| 3946 | | |
| 3947 | WENAS CREEK: | From North Wenas Road (SEC13-TWP14N- |
| 3948 | | RGE18E) downstream to the Yakima River. |
| 3949 | | |
| 3950 | WIDE HOLLOW CREEK: | From South 96 th Ave. downstream to the |
| 3951 | | municipal boundary for the City of Yakima |
| 3952 | | (SEC34-TWP13N-RGE18E). |
| 3953 | | |
| 3954 | WILDCAT CREEK: | From the Wenatchee National Forest |
| 3955 | | boundary (Sec. 25, T14N, R13E) |
| 3956 | | downstream to the Tieton River. |
| 3957 | | |