



COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

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**City of Yakima Planning Commission
PUBLIC HEARING/STUDY SESSION**

City Hall Council Chambers

Thursday May 16, 2013

2:00 pm - 5:00 pm

YPC Members:

**Chair Ben Shoval, Co-Chair Dave Fonfara, Ron Anderson, Al Rose,
Scott Clark, Paul Stelzer, Bill Cook**

City Planning Staff:

**Steve Osguthorpe, Community Development Director/Planning Manager; Bruce Benson, Supervising
Planner; Jeff Peters and Joseph Calhoun, Associate Planners; Chris Wilson, Assistant Planner; and
Rosalinda Ibarra, Administrative Assistant**

Agenda

**Announcement: This meeting is a study session on the City's Master Program in which the
general public is invited to participate and comment.**

- I. Call to Order**
- II. Roll Call**
- III. General Audience Participation Not Associated with an Item on the Agenda**
- IV. Public Hearing:**
 - Text Amendment: New Section 15.09.210 Special Requirements for Retaining Walls**
- V. Shoreline Master Program Review:**
 - Staff Distribution of Shoreline Materials**
 - Task#1 - Review Section 17.05.020 Environmental Protection**
 - Task#2 - Review Section 17.05.030 Shoreline Vegetation Conservation**
 - Task#3 - Review Section 17.09.030 Fish and Wildlife Habitat and the Stream Corridor System**
 - Task#4 - Review Section 17.050.060 Flood Hazard Reduction**
 - Task#5 - Review Section 17.07.030 Boating and Private Moorage Facilities**
 - Task#6 - Review Section 17.07.150 Shoreline Stabilization**
 - Task#7 - Review Remaining Sections of 17.09 Critical Areas**
 - Follow-up: Questions or Concerns Regarding Previous Edits and Changes**
- VI. Other Business**
- VII. Adjourn to May 22, 2013**

YAKIMA SHORELINE MASTER PROGRAM

MAY 16, 2013 PLANNING COMMISSION MEETING

This document provides draft regulations for the following sections of the City of Yakima Shoreline Master Program (SMP) Update:

- Section 17.05.020 Environmental Protection*
- Section 17.05.030 Shoreline Vegetation Conservation*
- Section 17.05.060 Flood Hazard Reduction*
- Section 17.07.030 Boating and Private Moorage Facilities
- Section 17.07.150 Shoreline Stabilization
- Chapter 17.09 Critical Areas in Shoreline Jurisdiction*

Typically, the base language is from the Yakima County Regional SMP, and then amended with strikeout/underline to be more consistent with City conditions or SMP Guidelines. In some cases, sections are “all new” and noted as such.

The draft sections should be read in conjunction with the following documents distributed to the Planning Commission at prior meetings:

- Preliminary Shoreline Environment Designations & Use and Modification Matrix Framework (updated version distributed at 4/10 meeting)
- Excerpts From Ecology’s Shoreline Master Program Submittal Checklist (distributed at 3/27 meeting)
- SMP Update Guidance – Consistency (distributed at 3/27 meeting)

PORTION OF CHAPTER 17.05 – GENERAL REGULATIONS

17.05.010 Environmental Protection [ALL NEW]

Consultant Note: The Yakima County SMP did not have a discrete Environmental Protection section, and instead focused on protection of critical areas/buffers. This section has been generated by Consultant to ensure WAC compliance and broader application of environmental protection principles to the entire shoreline jurisdiction, not just critical areas.

- A. Ecological Functions. Uses and developments on City of Yakima shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. Uses and developments must not have an unmitigated significant adverse impact on other shoreline functions fostered by this SMP.
- B. Protection of Critical Areas and Critical Areas Buffers. Critical areas, critical area buffers, and shoreline buffers must be protected in accordance with the provisions of Chapter 17.09, Critical Areas in Shoreline Jurisdiction.
- C. Mitigation Requirement. If a proposed shoreline use or modification is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, only then is a mitigation sequencing analysis described in

Section 17.05.010.D not required. In the following circumstances, the applicant must provide the mitigation sequencing analysis described in Section 17.05.010.D:

1. if a proposed shoreline use or modification is addressed in any part by discretionary standards (such as standards requiring a particular action if feasible or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or
 2. when an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or
 3. when specifically required by regulations contained in Chapters 17.05, 17.07 and 17.09 of this SMP.
- D. Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss of ecological functions provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Section 05.020(c) must describe how the proposal will follow the sequence of mitigation as defined below:
1. Avoid the impact altogether by not taking a certain action or parts of an action;
 2. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
 3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
 4. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
 5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
 6. Monitor the impact and the compensation projects and take appropriate corrective measures.
- E. Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the City of Yakima, but may be voluntarily performed by an applicant. In addition to any requirements found in Chapter 17.09, Critical Areas in Shoreline Jurisdiction, a mitigation plan must include:
1. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
 2. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;
 3. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;

4. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;
 5. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;
 6. A contingency plan if mitigation fails to meet established success criteria; and
 7. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.
- F. Alternative Mitigation. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported.

17.05.020 Shoreline Vegetation Conservation [ALL NEW]

Consultant Note: The County SMP has some jurisdiction-wide policies, but most policies are limited to critical areas and buffers and the regulations appear to be applied only to critical areas and buffers. This section has been developed with applicability in and outside of critical areas within shoreline jurisdiction.

- A. Vegetation conservation standards do not apply retroactively to existing uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction as stipulated in the approval documents for the development.
- B. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas must be managed consistent with Chapter 17.09 - Critical Areas in Shoreline Jurisdiction. Regulations specifying establishment and management of shoreline buffers (buffers associated with Type 1 streams and shoreline lakes) are located in YMC 17.09.030, Fish and Wildlife Habitat and the Stream Corridor System.
- C. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, other stream buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas, must be managed according to YMC 17.05.010, Environmental Protection, and any other regulations specific to vegetation management contained in this SMP and City of Yakima Code.
- D. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and City of Yakima Code. Mitigation sequencing per YMC 17.05.010.D must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development minimizes native vegetation removal. The City may approve modifications or require minor site plan alterations to achieve maximum tree retention.
- E. Where vegetation removal conducted consistent with this section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Adverse impacts are assumed to result from:
 1. removal of native trees and shrubs,

2. removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes, or
3. removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

Mitigation plans must be prepared by a qualified professional and must contain information required in YMC 17.05.010.E. Mitigation measures must be maintained over the life of the use or development, and must include compensation for temporal loss of function and the restoration of specific functions adversely impacted by the vegetation removal.

- F. Shoreline vegetation may be removed to accommodate a temporary staging area when necessary to implement an allowed use or modification, but mitigation sequencing must be utilized and the area must be immediately stabilized and restored with native vegetation once its use as a staging area is complete.
- G. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function. If a safety hazard cannot be easily determined by the City, a written report by a certified arborist or other qualified professional is required to evaluate potential safety hazards.
- H. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.
- I. Hand removal or spot-spraying of invasive species or noxious weeds on shorelands outside of steep or unstable slope areas is encouraged. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive species, the area must be stabilized using best management practices and replanted with native plants.
- J. Aquatic weed control may only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards. Removal using mechanical methods is preferred over chemical methods.

17.05.050 Flood Hazard Reduction [ALL NEW]

Consultant Note: This new section is derived almost exclusively from WAC requirements in 173-26-221(3). Some language is shown in tracks to indicate that it was relocated from existing City code.

- A. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including YMC 17.09.020, as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.
- B. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b) [See Figure X of this SMP]. Applicants for shoreline development or modification may submit a site-specific channel migration zone study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ

study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

- C. The following uses and activities may be authorized within the CMZ or floodway:
1. New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.
 2. Development of new or expansion or redevelopment of existing bridges, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible¹ (see definition in YMC 17.01.090) alternative exists or the alternative would result in unreasonable and disproportionate costs². The evaluation of cost differences between options within the CMZ or floodway and outside of the CMZ or floodway shall include the cost of design, permitting, construction and long-term maintenance or repair. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.
 3. Development of new or expansion or redevelopment of existing utility lines where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. The evaluation of cost differences between options within the CMZ or floodway and outside of the CMZ or floodway shall include the cost of design, permitting, construction and long-term maintenance or repair. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline. When the primary purpose of such a utility 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;

¹ "Feasible" means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- B. The action provides a reasonable likelihood of achieving its intended purpose; and
- C. The action does not physically preclude achieving the project's primary intended legal use.

In cases where these Guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

² For the purposes of this section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the Shoreline Administrator. [20% has been used as a threshold by WSDOT and the Federal Dept of Justice for ADA standards]

- 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 non-hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four (4) 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 the City of Yakima, which shall assume the conditions of a one-hundred (100) 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 this Title City of Yakima Shoreline Master Program Regulations;
- d. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and non-hazardous materials shall be buried below existing natural and artificial drainage features; and,
- e. Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of non-hazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the one-hundred (100) year flood level, the transmission line shall be placed on the downstream side and protected from flood debris. In such instances, site-specific conditions and flood damage potential shall dictate placement, design and protection throughout the floodway. Applicants must demonstrate that such aboveground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be adequately protected from flood damage. If the transmission line is to be buried except at the waterway crossing, burial specifications shall be determined as in subsection (C)(3) above.
3. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.
4. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
5. ~~6.~~ Water-dependent utilities and other installations which by their very nature must be in the floodway. Examples of such uses are: dams for domestic/industrial water supply;

~~wastewater treatment and collection systems; stream crossings or wetlands, flood control and/or hydroelectric production; water diversion structures and facilities for water supply; irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; and structures and nonstructural uses and practices; provided, that the applicant shall provide evidence that a floodway location is necessary in view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this Chapter and Title. In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection (C) above (Examples of water-dependent installations are: docks and boat launches; dams for domestic/industrial water supply; wastewater treatment and collection systems; flood control and/or hydroelectric production; water diversion structures and facilities for water supply; irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; and nonstructural uses and practices; provided, that the applicant shall provide evidence that a floodway location is necessary in view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this Chapter and Title);~~

6. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the modified or expanded development includes appropriate protection of ecological functions.
 7. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.
 8. Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.
- D. Existing structural flood hazard reduction measures, such as levees, may be repaired and maintained as necessary to protect legal uses on the landward side of such structures. Increases in height of an existing levee, with any associated increase in width, that may be needed to prevent a reduction in the authorized level of protection of existing legal structures and uses shall be considered an element of repair and maintenance.
- E. Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.
- F. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.
- G. New public and private structural flood hazard reduction measures:
1. shall be approved when a scientific and engineering analysis demonstrates the following:
 - a. that they are necessary to protect existing development;
 - b. that nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

- c. ~~a. that Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;~~
 - ~~bd. that the ability of Nnatural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired;~~
 - ~~ee. that Tthe proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,~~
 - f. that adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.
2. shall be consistent with an approved comprehensive flood hazard management plan.
 3. shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the Shoreline Administrator.
- H. All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project. [provision relocated from County's shoreline stabilization section]
 - I. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.
 - J. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing city-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by the approving flood hazard agency.
 - K. The removal of gravel or other riverbed material for flood management purposes shall be consistent with YMC 17.07.060, Dredging and Dredge Material Disposal, and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.
 - L. Roads shall be located outside the floodway, except necessary crossings which shall be placed perpendicular to the waterbody as much as is physically feasible. New transportation facilities shall be designed so that the effective base flood storage volume of the floodplain is not reduced. The applicant shall provide all necessary studies, reports and engineering analysis which shall be subject to review and modification by the City. If proposed transportation

facilities effectively provide flood control, they shall comply with policies and regulations of this section.

- M. In recognition of the significant benefits of levee setbacks, maximum flexibility of Title 17, including Chapter 17.09 Critical Areas, should be granted when existing structural flood hazard reduction measures are proposed for relocation landward of the existing flood hazard reduction measure. Existing public access or recreation facilities that need to be relocated to accommodate the relocated flood hazard reduction measure shall be allowed to be reconstructed in the floodway or channel migration zone provided they do not further limit channel migration or increase flood hazards.

PORTIONS OF CHAPTER 17.07 – USE-SPECIFIC AND MODIFICATION REGULATIONS

17.07.030 Boating and Private Moorage Facilities

~~The following provisions apply to any development, construction, or use of land for piers and docks within Shoreline jurisdiction.~~

- A. ~~Pier and dock construction~~All boating facilities shall be the minimum size necessary to meet the needs of the use.
- B. New pier or dock construction, excluding docks accessory to single-family residences, must demonstrate that a specific need exists to support the intended water-dependent or public access use.
- C. New residential development of two or more dwellings must provide joint-use or community dock facilities, when feasible, rather than allow individual docks for each residence.
- D. Docks, piers, and any other over-water structures for ~~similar purposes of temporary or permanent boat moorage~~, are prohibited in free-flowing streams and rivers ~~in Yakima County. Bridge and trestle piers, flow measuring gauges, and existing irrigation diversion facilities are excluded from the prohibition in this section.~~
- E. Public, commercial, or industrial Bboating facilities, ~~marinas and extended mooring sites~~ shall:
 1. comply with the health, safety and welfare standards of State and local agencies for such facilities;
 2. be so located and designed as not to obstruct or cause danger to normal public navigation of water bodies, if applicable;
 3. be restricted to suitable locations;
 4. avoid or mitigate for aesthetic impacts;
 5. ~~mitigate special impacts of live-aboard vessels~~;
 6. mitigate impacts to existing public access and navigation, if applicable;
 7. provide documentation of ownership or authorization to use associated water areas;
 8. demonstrate that state and local regulations will be met. Agencies responsible for such regulations shall be consulted as to the viability of the proposed design;
 9. submit an operations and site plan demonstrating:

- a. location and design of fuel handling and storage facilities to minimize accidental spillage and protect water quality;
- b. proper water depth and flushing action for any area considered for overnight or long-term moorage facilities;
- c. adequate facilities to properly handle wastes from holding tanks;
- d. that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, and access; and
- e. adequate access, parking, and restroom facilities for the public. Such facilities should be located away from the immediate water's edge.

F. Private residential docks.

1. Aspen Lake: the maximum length of docks is 8 feet measured perpendicular from the OHWM, and no new dock may be situated directly across from an existing dock.
2. Willow Lake: the maximum length of docks is 12 feet measured perpendicular from the OHWM.

G. Boat Launches.

1. Launch ramps shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available, with consideration for site-specific conditions and the particular needs of that use. At a minimum, they shall minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.
2. New boat launch facilities shall be approved only if they provide public access to public waters that are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing boat launch facilities at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities is not feasible or would not be adequate to meet a specific recreation or safety-related demand.

17.07.150 Shoreline Stabilization

~~The following provisions shall apply to shore stabilization projects:~~

- A. ~~Shoreline~~ stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, uses or facilities, and which stabilization will not jeopardize other upstream or downstream properties.
- B. Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise.
- C. Stabilization projects shall be ~~confined-limited in size~~ to the minimum protective measures necessary, and shall use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses. ~~to protect the threatened property.~~
- D. The use of fill to restore lost land may accompany stabilization work, provided the resultant shore does not extend beyond the new-original ordinary high water mark, finished grades are

consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with [Section YMC 16D.06.2117.07.060](#) (Filling).

- E. Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects.
- ~~F. Stream bank and lakeshore protection shall be accomplished using bioengineered (biotechnical) designs employing living plant materials as primary structural components of resistance to erosion and mass wasting, unless a report prepared by a qualified engineer experienced in soil bioengineering (biotechnical) and shoreline protection demonstrates that conventional structural armoring is the only feasible means of stabilizing the subject stream bank or lakeshore.~~
- ~~G. Applications to construct or enlarge dikes or levees shall meet the requirements of 16D.05.36.010(6).~~
- ~~H. Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore.~~
- ~~I. Breakwaters shall be constructed of floating or open pile designs rather than fill, riprap, or other solid construction methods.~~
- KE.** Additional Shoreline Standards for Shoreline Stabilization. The requirements below shall apply to all shoreline stabilization activities within Shoreline jurisdiction.
- ~~1. Where feasible, dikes and levees shall be located outside of the floodway or channel migration zone of the river or stream in order to minimize any attendant increase in water stage and stream flow velocity over existing conditions.~~
 - ~~2. Rip-rapping and other shoreline stabilization measures shall be designed, located, and constructed in such a manner as to minimize the disruption of natural channel characteristics.~~
 - ~~3. Where a geotechnical analysis or report is required, it shall meet the provisions of the definition provided in 17.01.090 (flood hazard reduction and shore modification in shoreline jurisdiction).~~
 - ~~4. When structural flood hazard reduction and shore stabilization measures are necessary, they shall be located and designed to meet the provisions of 16D.03.18(6) (flood hazard reduction and shore modification in shoreline jurisdiction).~~
 - 5.** Demonstration of necessity. New structural shoreline stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
 - a. New or enlarged structural stabilization measures ~~to protect~~ for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shore stabilization.

- b. Erosion control structures in support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:
 - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - ii. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.
 - c. Erosion control structures in support of water-dependent development when all of the conditions below apply:
 - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
64. Erosion control structures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to the Model Toxics Control Act (70.105D RCW) shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that demonstrates that nonstructural measures such as planting vegetation, or installing on-site drainage improvements, is not feasible or not sufficient.
75. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion. ~~For purposes of this section standards on shore stabilization measures,~~ "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures ~~under paragraph (g) above.~~
86. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shore stabilization structure.
97. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

Chapter 17.09 CRITICAL AREAS IN SHORELINE JURISDICTION

Consultant Note: The County's SMP language was not transferred to this section. Instead, the City's current critical areas regulations were transferred into this section, and changes to the existing City code are shown in strikeout/underline. Changes were made to better integrate this chapter with the remainder of the SMP (particularly for the Flood Hazard Areas section), to meet SMA/SMP Guidelines requirements, and where noted to correct possible unintentional past omissions.

17.09.010 General Provisions

~~15.27.100 Chapter and Authority~~

~~Yakima Municipal Code Chapter 15.27 is established pursuant to RCW 36.70A.060 (Growth Management Act Natural Resource Lands and Critical Areas Development Regulations), RCW Ch. 43.21C (State Environmental Policy Act), and federal requirements for eligibility in the National Flood Insurance Program, pursuant to Title 42 of the Code of Federal Regulations (CFR). This Chapter shall be known as the "Critical Areas Ordinance of the City of Yakima, Washington."~~

~~15.27.110 Language Interpretation~~

~~Unless specifically defined in Part Two (YMC 15.27.200), words, phrases and terms in this Chapter shall be interpreted to provide meaning and to give this Chapter it's most reasonable application.~~

~~Shall is mandatory;~~

~~May is discretionary and does not impose a requirement;~~

~~Should is always advisory;~~

~~Include(s) means the containment within as a subordinate part of a larger whole.~~

~~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.~~

- A. Purpose of Chapter. The purpose of Ch. 17.09 is to establish a single, uniform system of procedures and standards for development within designated critical areas within the [shoreline jurisdiction of the](#) incorporated City of Yakima and its Urban Growth Area.
- B. Intent of Chapter. Yakima Municipal Code Chapter 17.09 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. Wetlands, streams, stream corridors and rivers, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas constitute the City of Yakima's critical areas pursuant to WAC 365-190-030. These areas are of special concern to the people of the City of Yakima and the State of Washington because they are environmentally sensitive lands, or hazardous areas, which comprise an important part of the state's natural resource base. The policies, standards, and procedures of this Chapter are intended to:
 1. Preserve development options within designated critical areas where such development will result in the level of "No net loss" of the functions and values of the critical areas;
 2. Where appropriate, avoid uses and development which are incompatible with critical areas;
 3. Prevent further degradation of critical areas unless the degradation has occurred beyond feasible protection;
 4. Conserve and protect essential or important natural resources;
 5. Protect the public health, safety, and general welfare;
 6. Further the goals and policies of the Yakima Urban Area Comprehensive Plan;

7. Implement the goals and requirements of the Washington Growth Management Act (RCW 36.70A), [the Shoreline Management Act \(RCW 90.58\)](#), and the National Flood Insurance Program (CFR Title 42);
 8. Recognize and protect private property rights; and,
 9. Provide development options for landowners of all existing lots to the greatest extent possible, ~~through the establishment of Adjustment, Reasonable Use, and Non-Conforming Use and Facility provisions;~~
- C. The policies, standards and procedures of this Chapter are not intended to:
1. Regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective date of this Chapter;
 2. Result in an unconstitutional regulatory taking of private property;
 3. Require the restoration of degraded critical areas for properties in a degraded condition prior to the effective date of this Chapter unless improvement of the buffer is needed for new development proposed on the property;
 4. Presume that regulatory tools are the only mechanism for protection; and,
 5. Prohibit the use of valid water rights.
- D. Applicability. The provisions of this Chapter shall apply to any new development, construction, or use within the incorporated portion of the City of Yakima and its Urban Growth Area designated as a critical area and upon any land mapped and designated as a special flood hazard area under the National Flood Insurance Program. However, this Chapter does not apply to the situations below, except that the Flood Hazard protection provisions of YMC 17.09.020 will continue to apply as determined by YMC 17.09.020.A-G:
1. Within designated critical areas, there may exist lots, structures, and/or uses which were lawfully established prior to the adoption of this Chapter, as provided below, but which would be subsequently prohibited, regulated, or restricted under this Chapter. Such existing lots, structures, and/or uses shall be classified as legally non-conforming uses.
 2. It is the intent of this Chapter to permit these pre-existing legally non-conforming uses and structures to continue until such time as conformity is possible;
 - a. Critical areas on federally owned lands are not subject to the provision of this Chapter;
 - b. Minor, temporary, or transient activities (including those of a recreational nature) that do not alter the environment or require a dedicated staging area, use area, or route (including temporary signs) are not subject to this Chapter;
 - c. Mining, as defined in YMC 17.01.090, is carried out under a Washington Department of Natural Resources reclamation permit is not subject to the geologically hazardous areas provisions of this Chapter for erosion hazard areas, over steepened slope hazard areas, landslide hazard areas and suspected geologic hazard areas. Other critical areas provisions continue to apply.
- E. Critical Area Development Authorization Required

1. No new development, construction or use shall occur within a designated critical area without obtaining a development authorization in accordance with the provisions of this Chapter, except for those provided for in YMC 17.09.010.H or YMC 17.13.050. ~~Exemptions, as provided for in YMC 15.27.304 through 15.27.306, shall be considered as development authorization.~~
2. With respect to application and review procedures, it is the intent of this Chapter to streamline and coordinate development authorization within a critical area and recognize other requirements by local, state and/or federal permits or authorizations. Development, construction or use occurring within a designated critical area shall be processed according to the provisions of this Chapter, unless determined to be exempt.
3. Approval of a development authorization under this Chapter shall be in addition to, and not a substitute for, any other development permit or authorization required by the City of Yakima. Approval of a development authorization under this Chapter shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.
4. Development authorizations shall be issued in accordance with this Chapter, the Shoreline Management Act, and permit procedures of WAC 173-27.~~shall continue with the land and have no "sunset clause" unless otherwise stated in the development authorization.~~
5. Coordination with Other Jurisdictions.
 1. Where all or a portion of a standard development project site is within a designated critical area and the project is subject to another local, state or federal development permit or authorization, the Administrative Official shall determine whether the provisions of this Chapter can be processed in conjunction with a local, state or federal development permit or authorization, or whether a separate critical area development authorization application and review process is necessary. The decision of the Administrative Official shall be based upon the following criteria:
 - a. The nature and scope of the project and the critical area features involved or potentially impacted;
 - b. The purpose or objective of the permit or authorization and its relationship to protection of the critical area;
 - c. The feasibility of coordinating the critical area development authorization with other permitting agency;
 - d. The timing of the permit or authorization.
 2. When a determination has been made that provisions of this Chapter can be handled through another applicable development permit or authorization process, project proponents may be required to provide additional site plans, data and other information necessary as part of that process to ensure compliance with this Chapter. The Administrative Official's decision on the critical area development authorization shall be coordinated to coincide with other permits and authorizations. The Administrative Official may determine to accept the development authorization and/or permits from the other reviewing agencies as complete compliance with the City's critical area ordinance.

INQUIRY AND EARLY ASSISTANCE**F. Critical Area Identification Form and Critical Area Report Requirements**

1. Prior to the review of any applicable proposed development, construction or use, the applicant shall provide the City with a Critical Areas Identification Form and site plan and any other information the City may require to determine if a critical area is present.
2. Upon receipt of a Critical Area Identification Form and site plan, the Administrative Official or designee may conduct a site examination to review critical area conditions. The Administrative Official or designee shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner.
3. The Administrative Official or designee shall review the available information pertaining to the proposal and make a determination whether any critical areas may be affected. If so, a more detailed critical area report shall be submitted in conformance with YMC 17.09.010.P and YMC 17.09.010.Q, except as provided below:
 - a. No critical areas present. If the Administrative Official or designee is able to sufficiently determine a critical area does not exist within or adjacent to the project area and / or a critical area report is not required.
 - b. Critical areas present, but no impact. If the Administrative Official or designee is able to determine the existence, location and type of critical area and the project area is not within the critical area and or the project will not have an indirect impact on the function of an adjacent wetland.
 - c. Critical areas may be affected by a proposal. The Administrative Official or designee may waive the requirement for a critical areas report utilizing the technical expertise of other reviewing agencies if:
 - i. The Administrative Official is sufficiently able to determine the existence, location and type of the critical area;
 - ii. The project scale or nature is such that a specialist is not necessary to identify impacts and mitigation; and,
 - iii. The applicant agrees to provide mitigation the Administrative Official deems adequate to mitigate for anticipated impacts.
4. Reports will generally fall into the following groups:
 - a. Determining the absence of a critical area;
 - b. Determining the existence, location and type of a critical area;
 - c. Determining impacts of an encroachment on a critical area and general mitigation measures; and
 - d. Developing a compensatory mitigation plan.
5. ~~The Administrative Official or designee shall base wetland boundary determinations on those criteria specified in the Washington State Wetlands Identification and Delineation Manual (1997). Wetland mitigation adequacy determination by the Administrative Official shall be consistent with the Wetland Mitigation in Washington State, Parts 1 & 2 (March 2006 or as updated).~~

- G. Pre-application Conference. Any new development or use falling under the provisions of this Chapter may be subject to a pre-application conference. Prior to the pre-application conference, the project proponent must submit a Critical Area Identification Form and preliminary site plan.

A project review for flood hazards shall follow the pre-application requirements established to administer Part Four Flood Hazard Areas.

The pre-application conference is intended to allow the Administrative Official or designee to:

1. Establish the scope of the project and identify potential concerns that may arise;
2. Identify permits, exemptions, and authorizations, which the project proponent may need to obtain;
3. Determine whether the project will be processed through the development procedures of this Chapter or coordinated with the review procedures of another development permit or authorization;
4. Provide the proponent with resources and technical assistance (such as maps, scientific information, other source materials, etc.); and,
5. Determine whether there is a need for a preliminary site assessment.

ABBREVIATED REVIEW ALTERNATIVES

- H. Minor Activities Allowed without a [Critical Areas Permit or Exemption](#); [the project may require a shoreline permit or shoreline exemption under other provisions of this Title](#). This Chapter shall be inapplicable to the following actions ~~(YMC 15.27.140(B))~~:

1. Maintenance of existing, lawfully established areas of crop vegetation, landscaping, paths, and trails or gardens within a regulated critical area or its buffer. Examples include: mowing lawns, weeding, garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas;
2. Minor maintenance and/or repair of structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing replacement, re-roofing, etc. Cleaning, operation and maintenance of canals, ditches, drains, waste ways etc. is not considered additional earthwork, as long as the cleared materials are placed outside the stream corridor, wetlands, and buffers;
3. Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education or scientific research;
4. Creation of private trails that do not cross streams or wetlands that are less than two (2) feet wide and do not involve placement of fill or grubbing of vegetation;
5. Maintenance and normal work of the Greenway pathway and grounds;
6. Planting of native vegetation;
7. Noxious weed control outside vegetative buffers identified in YMC 17.09.030.O and YMC 17.09.040.E; and,

8. Noxious weed control within vegetative buffers, if the criteria listed below are met. Control methods not meeting these criteria may still apply for a restoration exemption, or other authorization as applicable:
 - a. Hand removal/spraying of individual plants or other acceptable method approved by the administrative official;
 - b. No area wide vegetation removal/grubbing.

~~15.27.304 Documented Exemption Procedural Requirements~~

~~The following development activities are exempt from standard development permits, except that Flood Hazard exemptions shall follow the exemption procedures found in YMC 15.27.403. Exemption from this Chapter shall follow subsection (F)(1) below, and does not under any circumstances give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense, according to YMC 15.27.521.~~

~~Exemptions shall be construed narrowly and any exempted development shall be consistent with the policies and provisions of this Chapter.~~

~~If any part of a proposed development is not eligible for an exemption, then a development permit is required for the entire proposed project.~~

~~The burden of proof that a development or use is exempt is on the applicant.~~

~~When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this Chapter, such development must also obtain an Adjustment.~~

~~All exempted activities shall use reasonable methods to avoid potential impacts to critical areas.~~

~~The proponent of an exempt activity shall submit a written request for a documented exemption which states the following:~~

~~Why the exemption is being sought.~~

~~A project description that demonstrates the following:~~

- ~~a. The sequence of activities to be conducted,~~
- ~~b. The equipment to be used (hand or mechanical),~~
- ~~c. The best management practices to be used,~~
- ~~d. The efforts employed to minimize adverse impacts, and~~
- ~~e. Restoration for disturbed areas following the activity including mitigation for lost wetland functions.~~

~~The Administrative Official or designee shall approve or deny the exemption. A formal letter of exemption shall be provided when an exempt activity is approved under this Chapter. If an exemption cannot be granted, the Administrative Official or designee shall notify the applicant in writing, stating the reason for denial of the exemption, at which time the applicant may pursue other permit processes under this Chapter or modify the activity to a level that would justify reconsideration.~~

~~The following activities are exempt from the standard development permit process and identified in the following locations. However, this provision does not exempt an activity from other parts, permits or reviews required under Ch. 15.27:~~

~~Those activities listed in YMC 15.27.305;~~

~~Those activities listed in YMC 15.27.306; and,~~

~~Those activities listed in YMC 15.27.403 are exempt from the Flood Hazard Permit requirements of "Part Four" YMC Ch. 27, Flood Hazard Areas.~~

~~15.27.305 — Documented Exemptions for Hydrologically Related Critical Areas and Wetlands~~

~~The following development activities are exempt from standard development permits, except that Flood Hazard exemptions shall follow the exemption procedures found in YMC 15.27.403.~~

~~Construction of a single family residence and appurtenances where the residence and appurtenances meet all requirements of the City of Yakima and do not lie within a designated critical area or buffer (See Single Family Dwelling and Normal Appurtenances definition YMC 15.27.200). Applications for development within critical areas or their buffers shall follow the procedures of YMC 15.27.317.~~

~~Construction shall not involve placement of fill in any wetland or at locations waterward of the ordinary high water mark; and,~~

~~Construction authorized under this exemption shall be located landward of the ordinary high water mark.~~

~~Single Family residence bulkheads, which includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting the single family residence and appurtenant structures from loss or damage by erosion.~~

~~Normal protective bulkheads are not exempt if constructed for the purpose of creating dry land.~~

~~Bioengineering options shall be considered by the Administrative Official or designee prior to exemption of (B)(3) & (B)(4) below.~~

~~When repairing an existing bulkhead by construction of a vertical wall it shall be constructed no further waterward of the existing bulkhead.~~

~~Bioengineered erosion control projects may be considered a bulkhead when the project has been approved by the Department of Fish and Wildlife;~~

~~Normal maintenance or repair of existing structures or development, including damage by accident, fire, or elements are exempt, but may require a building permit. (See YMC 15.27.200).~~

~~Except where repair involves total replacement or causes substantial adverse effects to the environment.~~

~~Replacement of non-conforming uses or facilities may also be subject to YMC Ch. 15.19;~~

~~Emergency construction for protecting property from damage by the elements. The following criteria must exist to qualify any action under an emergency provision:~~

~~There must be an immediate threat to life, public or private property, or the environment arising from a natural condition or technical incident.~~

~~The emergency response must be confined to the action necessary to protect life or property from damage.~~

~~The scope of the emergency response must be limited to the work necessary to relieve the immediate threat.~~

~~The emergency response applies only to the period of time when the actual emergency exists.~~

~~The request must be accompanied by a permit application or for an emergency exemption. Submittal requirements may be waived until after the emergency is deemed abated, and at that time the property owner shall submit an emergency mitigation summary to the City of Yakima;~~

~~Construction of a dock for the use of a single family or multiple family residence;~~

~~The construction of canals, waterways, drains, reservoirs, or other manmade facilities as a part of an irrigation system;~~

~~Any project with certification from the governor pursuant to RCW Ch. 80.50 (Energy facilities — site locations);~~

~~Watershed restoration projects pursuant to RCW 89.08.460;~~

~~Site exploration and investigation activities required for a development permit provided that:~~

~~The activity will have no significant adverse impact on the environment;~~

~~The activity does not involve the installation of any structure, and~~

~~Upon completion of the activity, the vegetation and land configuration of the site are restored to conditions as they existed prior to the activity;~~

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

~~A public or private project to improve fish or wildlife habitat or fish passage, if:~~

~~The project has been approved by the Department of Fish and Wildlife;~~

~~The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to RCW Ch. 75.20 (Hydraulics Code);~~

~~The Administrative Official has determined that the project is consistent with this Chapter.~~

~~Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 (Fish Habitat Enhancement Projects) are deemed to be consistent with this Chapter.~~

~~Hazardous substance remedial actions pursuant to RCW Ch. 70.105D (Model Toxics Control Act).~~

~~The removal of trees which are hazardous, posing a threat to public safety, or pose an imminent risk of damage to private or public property, from critical areas and their buffers.~~

~~1. Documented Exemptions for Geologically Hazardous Areas Development Authorizations. The following development activities are exempt from standard development permits that are required for Geologically Hazardous Areas:~~

- ~~1. Additions to or alteration of existing single family residences.~~
- ~~2. Uses and surface disturbances (clearing and grubbing) that do not include excavation, fill or irrigation;~~
- ~~3. Structures less than one hundred and twenty (120) square feet; and,~~
- ~~4. Oil, gas, wind, or other exploration that does not include explosions, road construction, excavation or fill.~~

I. Mitigation requirements

1. All mitigation shall be sufficient to maintain the functions and values of the critical area.
2. All development shall demonstrate that reasonable efforts have been examined to avoid and minimize impacts to critical areas; and
3. When an alteration to a critical area is proposed, it shall be avoided, minimized, or mitigated for ~~in the following order of preferences as specified in YMC 17.05.010.D:~~

~~Avoiding the impact;~~

~~Minimizing impacts by limiting the degree or magnitude of the action, by using appropriate technology. (i.e. project redesign, relocation or timing, to avoid or reduce impacts);~~

~~Rectifying the impact by repairing, rehabilitating or restoring the affected environment as appropriate;~~

~~Reducing or eliminating the impact by preservation and maintenance operations;~~

~~Compensating for the impact by replacing or providing substitute resources or environments; and,~~

~~Monitoring the impact and taking appropriate corrective measures.~~

4. If an alteration to a critical area is unavoidable, all adverse impacts to that critical area and its buffers shall be mitigated for in accordance with an approved Mitigation Plan and mitigation for wetland impacts shall be mitigated in accordance with the Washington State Department of Ecology Wetland Mitigation in Washington State, Parts 1 and 2 (March 2006 or as updated).
5. Mitigation shall be in-kind and on-site, whenever possible, and may be out-of-kind and/or off-site when deemed appropriate by the Administrative Official or designee.

REVIEW PROCESS

J. Application Submittal

1. Applications for development authorizations under this Chapter shall be made on forms provided by the Department. Application submittals shall include a site plan drawn to an engineering scale of 1:20 showing:
 - a. Dimensions of all sides of the parcel,
 - b. Size and location of existing and proposed structures,
 - c. Excavation, fill, drainage facilities, impervious surfaces, topography, slope; and,
 - d. Other information as needed to determine the nature and scope of the proposed development; and
 - e. Location of all critical areas ~~such as those identified in YMC 15.27.314.~~
2. The submittal shall also include all required critical areas reports prepared in conformance with YMC 17.09.010.P and YMC 17.09.010.Q.
3. To be complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this Chapter or requested on the basis of the pre-application conference (YMC 17.09.010.G).

K. Determination of Review Process

1. The Administrative Official or designee shall determine from the application submittal, and other available information what type of permit(s) and/or review(s) will be required under this Chapter.
2. Specific information of permit type, review and process can be found in subsequent sections of this Chapter and in YMC Chapter 17.13. ~~However, a description of each type of permit or review is provided in Table 27.3-1 below. More than one permit or review may be needed for a project dependant upon project complexity.~~

Table 27.3-1

General Permits or Reviews
Standard Development. Standard development projects include any development not subject to RCW Ch. 90.58, the Shoreline Management Act.
Documented Exemptions. Documented Exemptions are described as minor activities that do not need to go through a permit process. Exemptions from this Chapter may be found in YMC 07.09.020.
Specific Permits
Adjustment. An Administrative Adjustment is used outside Shoreline jurisdiction when a project requires a reduction or adjustment to a development standard.
Non-conforming Use or Facility Alteration. A Non-conforming Use or Facility Alteration is necessary when an existing use that currently does not conform to this Chapter is to be altered.
Minor revisions to an Existing Permit. A Minor Revision to an Existing Permit allows a simplified review of certain changes to a project that has previously received a permit.
Reasonable Use Exception. A Reasonable Use Exception provides 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 may include many of the specific permit types noted above, which are described in YMC 17.09.020. 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.

- L. Development Authorization – Review Procedure. Upon submittal and acceptance of a completed development authorization application, the Administrative Official or designee shall process and review the application as follows. Except: Permits or reviews under YMC 17.09.020 shall follow the development regulations and procedures of YMC 17.09.020.

1. Development authorizations shall be processed in accordance with Notice Procedures Statutory Noticing Requirements in YMC Title 1617.13.030 and with specific requirements provided in YMC 15.27.316 YMC Chapter 17.13–320, including but not limited to:
 - a. Submittals,
 - b. Completeness review,
 - c. Notices,
 - d. Hearings,
 - e. Decisions, and
 - f. Appeals.
 2. In circumstances where a critical area is proposed to be altered, but the development otherwise requires only a Shoreline Exemption, the development must be reviewed and processed as a Shoreline Substantial Development Permit or a Shoreline Variance.
 3. Development authorizations shall be reviewed in conformance with the applicable development standards of YMC 17.09.010.R and with YMC 17.09.030-060.
 4. Decisions on a development authorization shall be consistent with YMC 17.09.010.M, YMC 17.09.010.N, and with any specific decision criteria provided under the section for each relevant permit type, as provided in YMC 17.13 and YMC 17.09.010.R.
- M. Authorization Decisions – Basis for Action.
1. In addition to meeting the Shoreline permit-specific criteria in YMC Ch. 17.13, the action on any development authorization under this Chapter shall also be based upon the following criteria:
 - a. Impact of the project to critical area features on and abutting the property;
 - b. Danger to life or property that would likely occur as a result of the project;
 - c. Compatibility of the project with the critical area features;
 - d. Conformance with applicable development standards;
 - e. Compliance with flood hazard mitigation requirements of YMC 17.09.020;
 - f. Adequacy of the information provided by the applicant or available to the Department;
 2. Based upon the project evaluation, the Administrative Official shall take one (1) of the following actions:
 - a. Grant the development authorization;
 - b. Grant the development authorization with conditions, as provided in YMC 17.09.010.N, to mitigate impacts to the critical area feature(s); or,
 - c. Deny the development authorization.
 3. The decision by the Administrative Official or designee shall include written findings and conclusions.

- N. Conditional Approval of Development Authorization. In granting any development authorization, the Administrative Official or designee may impose conditions to:
1. Accomplish the purpose and intent of this Chapter;
 2. Eliminate or mitigate any identified negative impacts of the project; and,
 3. Protect critical areas from damaging and incompatible development.
- O. Fees and Charges. The Yakima City Council shall establish the schedule of fees and charges listed in YMC Ch. 15.26 (City of Yakima Fee Schedule), for development authorizations, variances, appeals and other matters pertaining to this Chapter.

CRITICAL AREAS REPORTS

P. Critical Areas Report Requirements

1. The Administrative Official or designee may require a critical areas report, paid for by the applicant, when it is determined necessary.
2. A qualified professional shall prepare the report consistent with most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern~~Best Available Science~~. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be appropriate to the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.
3. The critical area report shall:
 - a. Demonstrate the proposal is consistent with the purposes and standards of this Chapter;
 - b. Describe all potential risks to critical areas, and assess impacts on the critical area from the activities and uses proposed; and,
 - c. Identify mitigation and protective measures.
4. The critical areas report shall include information addressing the supplemental report requirements (See YMC 17.09.010.Q).
5. The Administrative Official or designee shall review the critical areas report for completeness and accuracy and shall consider the recommendations and conclusions to assist in making decisions on development authorizations, appropriate mitigation, and protective measures.
6. Critical areas reports shall be valid for a period of five (5) years, unless it can be demonstrated that a previous report is adequate for current analysis. Reports prepared for adjacent properties may be utilized for current analysis only when it can be shown through a supplemental report or site investigation that conditions on site are unchanged.
7. The Administrative Official or designee may require the preparation of a new critical area assessment or a supplemental report if the initial assessment is in error.
8. The Administrative Official or designee may reject or request revision of the critical areas report when it can be demonstrated that the assessment is inaccurate, incomplete or does not fully address the critical areas impacts involved.

9. Applicants shall provide reports and maps to the City in both electronic and paper formats. In addition, all critical area delineations / maps shall be provided to the City by means of a GPS projected coordinate system data set, such as, NAD 27 or NAD 83. The City may waive this requirement for single-family developments. Applicants are encouraged to coordinate with the Administrative Official or designee regarding electronic submittal guidelines.
10. At a minimum, a critical areas report shall include the following information:
 - a. A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and buffers;
 - b. A written summary of the critical areas, including their size, type, classification or rating, condition, disturbance history, and functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the description shall identify the type and characteristics of the hazard;
 - c. An analysis of potential adverse impacts and how they will be mitigated or avoided. Geological hazardous areas are additionally required to assess the risks posed by the development to critical areas, public and private properties, and both associated and unassociated nearby facilities and uses;
 - d. When impacts cannot be avoided, the report shall include a plan describing mitigation to replace critical area functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity the mitigation shall additionally address the site, and other public and private properties, and both associated and unassociated nearby facilities and uses potentially affected;
 - e. The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
 - f. Additional reasonable information requested by the Administrative Official or designee.
11. A critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site.
12. The Administrative Official or designee may limit the geographic area of the critical area report as appropriate.
13. Compensatory Mitigation Plans - When compensatory mitigation, as described in YMC 17.09.010.I, are proposed for wetland areas or stream channels, the applicant shall submit a mitigation plan as part of the critical area report, which includes:
 - a. A written report identifying environmental goals and objectives of the proposed compensation including a description of:
 - i. The anticipated impacts to the critical areas;
 - ii. The mitigating actions proposed;
 - iii. The purpose of the compensation measures, including site selection criteria;
 - iv. The compensation goals and objectives;
 - v. The desired resource functions;
 - vi. Construction activities start and completion dates; and,

- vii. Analysis of anticipated success of the compensation project.
 - b. A review of the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern ~~best available science~~ supporting the proposed mitigation;
 - c. A description of the report and the author's experience to date in restoring or creating the type of critical area report proposed; and,
 - d. Performance Standards – The mitigation plan shall include measurable specific criteria for evaluating the goals and objectives to ensure the mitigation project has been successfully attained.
 - e. Detailed Construction Documents – The mitigation documents shall include written specifications and plans describing the mitigation proposed, such as:
 - i. The proposed construction sequence, timing, and duration;
 - ii. Grading and excavation details;
 - iii. Erosion and sediment control features;
 - iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density;
 - v. Measures to protect and maintain plants until established; and,
 - vi. Documents should include scale drawings showing necessary information to convey both existing and proposed topographic data, slope, elevations, plants and project limits.
 - f. Monitoring Program - The mitigation plan shall include:
 - i. A program for monitoring both construction of the compensatory project and its completion and survivability;
 - ii. A plan which details how the monitoring data will be evaluated to determine if the performance standards are being met;
 - iii. Reports as needed to document milestones, successes, problems, and contingency actions of the compensation project; and,
 - iv. Monitoring for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years;
 - g. Contingency Plan – Identification of the potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
 - h. Financial Guarantees – A financial guarantee ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with YMC 17.09.010.R.1.
14. Innovative Mitigation.
- a. Advanced mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section. One (1) or more applicants or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

- i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
 - ii. The applicant demonstrates the organizational and fiscal capability to act cooperatively;
 - iii. The applicant demonstrates that long-term management of the habitat area will be provided;
 - iv. There is a clear potential for success of the proposed mitigation at the identified site;
 - v. There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;
 - vi. The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;
 - vii. The plan is consistent with the general purpose and intent of this section;
 - viii. The plan shall contain relevant management strategies which are within the scope of this section; and,
 - ix. The plan shall contain clear and measurable standards for achieving compliance with the purposes of this section, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
- b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required wetland replacement ratios.
 - c. Projects that propose compensatory wetland mitigation shall also use the standards in YMC 17.09.040.E. For those situations where a mitigation bank may provide an opportunity for mitigation, the requirements in YMC 17.09.040.F shall apply.

Q. Supplemental Report Requirements for Specific Critical Areas

1. Stream Corridors: When a critical areas report is required for a stream corridor or hydrologically related critical area, it shall include the following:
 - a. A habitat and native vegetation conservation strategy that addresses methods to protect the functional properties listed in YMC 17.09.030.E; and,
 - b. Where proposed construction lies within an immediate zone of potential channel migration, a hydrologic analysis report may be required. The report shall assume the conditions of the one-hundred-year flood, include on-site investigative findings, and consider historical meander characteristics in addition to other pertinent facts and data.
2. Wetlands. When a critical areas report is required for Wetlands, it shall include the following:
 - a. The exact location of a wetland's boundary and wetland rating as determined through the performance of a field investigation by a qualified wetland professional applying the Washington State Wetland Identification and Delineation Manual (Ecology Publication #96-94) as required by RCW 36.70A.175 and the Washington State Wetland Rating System for Eastern Washington;

- b. All delineated wetlands and required buffers within two hundred (200) feet of the project area shall be shown on the site plan. Available information should include, but not be limited to aerial photos, land based photos, soils maps, or topographic maps;
 - c. An analysis of the wetlands including the following site related information;
 - i. A statement specifying the accuracy of the report and all assumptions made and relied upon;
 - ii. Documentation of fieldwork performed on the site, including field data sheets for delineations, wetland rating forms, baseline hydrologic data, etc.;
 - iii. A description of the methodologies used to conduct the wetland delineations, or impact analyses including references;
 - iv. Wetland category, including vegetative, faunal, and hydrologic characteristics; and,
 - d. For projects that will affect the wetland or buffer, provide the following:
 - i. A habitat and native vegetation conservation strategy that addresses methods to protect or enhance on-site habitat and wetland functions and values listed in YMC 17.09.040.D.1 and YMC 17.09.030.E; and,
 - ii. Mitigation sequencing, pursuant to YMC 17.05.010.D to avoid, minimize, and mitigate impacts shall result in "not net loss" of acreage or functional values of wetlands and shall follow the guidance provided in YMC 17.09.040.E.
3. Geologically Hazardous Areas. When a critical areas report is required for a Geologically Hazardous Area, it shall include the following:
- a. A description of the site features, including surface and subsurface geology.
 - b. A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any Suspected and Risk Unknown hazards identified in the affirmative determination of hazard;
 - c. A description of the vulnerability of the site to seismic and other geologic processes and hazards; and,
 - d. A description of any potential hazards that could be created or exacerbated as a result of site development;
 - e. For developments in or affecting landslide hazard areas the report shall also include:
 - i. Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading and shall use a minimum horizontal acceleration as established by the current version of the YMC Title 11 (Building Code);
 - ii. An analysis of slope recession rate shall be presented in those cases where stability is impacted by stream meandering or other forces acting on the toe of the slope; and,
 - iii. Description of the run-out hazard of landslide debris to the proposed development that starts up-slope and/or the impacts of landslide run-out on down-slope properties and critical areas.

4. Flood Hazards. Prior to authorization of any construction within a floodplain, which can be anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the base flood, an engineering report shall be prepared by a licensed engineer in the State of Washington that establishes any new flood elevations that would result for the one-hundred-year flood frequency if the project were implemented.

Permit Review Criteria

~~15.27.316 – Standard Development Permit~~

- ~~A. Classification criteria – standard development permits include any development not subject to RCW Ch. 90.58 (Shoreline Management Act).~~
- ~~B. Process – standard development permits shall be processed as either a Type (1) or Type (2) Review; and applications that are of a significant size or scope may be processed as a Type (2) or (3) Review at the judgment of the Administrative Official or designee. Examples of such projects include those that typically require environmental review (SEPA), filling or excavating a stream channel or wetlands, involve large amounts of fill, require large amounts of parking, etc.~~
- ~~C. Decision criteria – decisions on standard development permits shall be based on the general decision criteria found in YMC 15.27.311.~~

~~15.27.317 – Adjustment~~

- ~~A. Classification Criteria. For projects not required to be processed under RCW Ch. 90.58 (Shoreline Management Act), the Administrative Official or designee is authorized to administratively adjust the development standards. Existing structures, parcel size, property boundaries, and other constraints may preclude conformance with building setbacks and vegetative buffers. Given such constraints, administrative adjustments may be authorized where the site plan and project design include measures to ensure the protection and performance of the functional properties identified in YMC 15.27.504. Adjustments of vegetative buffer standards listed in Table 6-1 and 6-2 may be reduced to the minimum buffer width listed. Reductions below the minimum may be considered but require stricter criteria be met in subsection (C)(4) below. Adjustments to prohibited use limits are not allowed.~~
- ~~B. Process. Requests for an Adjustment permit shall be processed as a Type (2) Review. Requests for adjustments of development standards shall be made in writing and shall specify the standard(s) that an adjustment is sought for, along with the reasons why the adjustment is sought.~~
- ~~C. Decision Criteria. Decisions on adjustment permits shall be based on the general decision criteria found in YMC 15.27.311 together with the criteria below.~~
 - ~~1. A particular standard may be reduced or modified as long as the Administrative Official determines that the adjustment and/or reduction:~~
 - ~~a. Is consistent with the purpose of this Chapter,~~
 - ~~b. Is consistent with the intent of the standard; and,~~
 - ~~c. Will not result in degradation of the critical area.~~
 - ~~2. The Administrative Official or designee shall consider the following:~~
 - ~~a. The proximity and relationship of the project to any critical area and its potential impacts;~~
 - ~~b. The functions and values that the critical area performs;~~
 - ~~c. The overall intensity of the proposed use;~~
 - ~~d. The presence of threatened, endangered, or sensitive species;~~

- ~~e. The site's susceptibility to severe erosion; and,~~
 - ~~f. The use of buffer averaging or buffer enhancement plans by the applicant using native vegetation or other measures to enhance the functions and values of the Hydrologically Related Critical Area (HRCA).~~
- ~~3. When granting an adjustment, the Administrative Official or designee may require, but is not limited to the following alternative measures to protect the functions and values of the HRCA:~~
- ~~a. Restoration of impaired channels and banks to conditions which support natural stream flows, fish habitat, and other values;~~
 - ~~b. Restoration, enhancement, and preservation of soil characteristics and the quantity and variety of native vegetation;~~
 - ~~c. Provisions for erosion control and the reduction and filtration of stormwater runoff on the stream channel and buffer;~~
 - ~~d. Removal or alteration of existing manmade facilities associated with stream channels, or drainage ways which improve stream flow or exchange of surface waters;~~
 - ~~e. Replacement of lost stream corridor features on an acre for acre basis and replacement of lost wetlands in accordance with guidance provided in the Washington State Department of Ecology's Wetland Mitigation in Washington State, Parts 1 and 2 (March 2006 or as updated);~~
 - ~~f. Conservation easements for key portions of stream corridor property and/or their inclusion within public or private conservation programs; or,~~
 - ~~g. Vegetative buffer averaging may be modified by averaging buffer widths. Buffer averaging is preferred in the use of mitigation sequencing (YMC 15.27.307) over a reduction in the buffer standards.~~
- ~~4. The following additional criteria must be met to reduce the critical areas stream and wetland buffers found in Tables 27.5-1 and 27.5-2 below the minimum listed in the respective tables:~~
- ~~a. There is a hardship related to maintenance of the minimum buffer width that results from parcel boundaries or existing on-site development;~~
 - ~~b. When warranted under subsection (A) above the buffer width shall be the maximum possible while meeting the minimum need of the proposal; and,~~
 - ~~c. The applicant shall prepare a mitigation plan which addresses the decrease of wetland or stream function due to the decrease in buffer size.~~

~~15.27.318 – Reasonable Use Exception~~

- ~~A. Classification Criteria. If the application of this Chapter would deny all reasonable economic use of the subject property, the property owner may apply for a Reasonable Use Exception.~~
- ~~B. Process. A Reasonable Use Exception shall be processed as a Type (3) Review with a public hearing.~~
- ~~C. Decision Criteria. The Reasonable Use request shall be accompanied by conformance criteria. Failure to satisfy any one of the criteria shall result in denial of the request and the burden of the proof shall be on the applicant. Decisions on a Reasonable Use request shall be based on the general decision criteria found in YMC 15.27.311 together with the criteria below.~~

- ~~1. The application of this Chapter would deny all reasonable use of the property; provided that the inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant;~~
- ~~2. No other reasonable use of the property has less impact on the critical area; and,~~
- ~~3. Any alteration is the minimum necessary to allow for reasonable use of the property.~~

~~15.27.319 – Minor Revisions to Approved Uses or Development~~

- ~~A. Classification Criteria. Minor revisions as described in & YMC 15.27.200 to a project that has been previously approved under a critical area permit are allowed under the following circumstances:~~
- ~~1. Changes that are not substantive are not required to obtain a revision and may be allowed; and,~~
 - ~~2. Substantive changes are those that materially alter the project in a manner that relates to its conformance with the permit requirements. Such changes may be approved as a minor revision, if the Administrative Official or designee determines that the proposed revision is within the scope and intent of the original permit, and meets the criteria listed below. Failure to meet the criteria below will require a new permit.~~
 - ~~a. Lot coverage and height may be increased by a maximum of ten (10%) percent from the provisions of the original permit, provided that:

 - ~~i. Revisions involving new structures not shown on the original site plan shall require a new permit; and,~~
 - ~~ii. Any revisions authorized under this subsection shall not exceed height, lot coverage, setback, or any other requirements of this Chapter.~~~~
 - ~~b. Landscaping may be added without an application for a new permit provided that it is consistent with conditions of the original permit;~~
 - ~~c. The use authorized pursuant to the original permit has not changed; and,~~
 - ~~d. No additional significant adverse environmental impacts will be caused by the project revision.~~
- ~~B. Process. Minor revisions to existing permits shall be processed under Class (1) Review procedures.~~
- ~~C. Decision Criteria. Decisions on permit revisions shall be based on the general decision criteria found in YMC 15.27.311.~~

~~15.27.320 – Non-Conforming Uses and Facilities~~

~~Non-Conforming Uses and Facilities are classified as either Conforming Uses with Non-Conforming Structures or Areas, or as Non-conforming Uses. Both of which have different review processes and decision criteria, as provided for in YMC Ch. 15.19.~~

- R. General Critical Areas Protective Measures. The standards below apply to all permits and reviews performed under this Chapter.
1. Financial Guarantees. Financial guarantees may be required to ensure mitigation, maintenance, and monitoring.
 - a. When required, mitigation pursuant to a development proposal is not completed prior to the City of Yakima's final permit approval, the Administrative Official or designee may require the applicant to post a financial guarantee to ensure that the work will be completed.

- b. If a development proposal is subject to compensatory mitigation, the applicant must post a financial guarantee to ensure mitigation is fully functional.
 - c. All financial guarantees shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.
 - d. The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the Administrative Official or designee, with terms and conditions acceptable to the City of Yakima attorney.
 - e. The financial guarantee shall remain in effect until the Administrative Official or designee determines that the standards bonded for have been met. Financial guarantees for wetland or stream compensatory mitigation shall be held for a minimum of five (5) years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function.
 - f. If public funds have previously been committed for mitigation, maintenance, monitoring, or restoration, a financial guarantee will not be required.
 - g. Failure to satisfy critical area requirements shall constitute a default, and the Administrative Official and his or her designee may demand payment of any financial guarantee.
 - h. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Such funds shall be deposited in a separate account. The City of Yakima will use such funds to arrange for completion of the project or mitigation, and follow-up corrective actions.
 - i. Depletion, failure, or collection of financial guarantees shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
2. Subdivision Standards. The following standards apply to all permits or reviews under the Subdivision Ordinance (Title 14) that contain critical areas:
- a. All subdivisions that contain critical areas shall be eligible for density bonuses or other development incentives, as provided in the Subdivision Ordinance (Title 14) and Zoning Ordinances (Title 15);
 - b. Critical areas shall be actively protected through the following:
 - i. Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible;
 - ii. When Geologically Hazardous Areas (excluding Erosion, Over-steepened Slopes of Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), Streams, Wetlands and/or Vegetative Buffers fall within the boundary of a subdivision;
 - a) Said critical areas shall be protected by placing them entirely within a separate critical area tract or by including them entirely within one of the developable parcels. Other options, such as conservation easements and building envelopes

may be deemed appropriate by the Administrative Official as meeting this provision when special circumstances obstruct the viability of this provision:

- b) For those new lots that do contain said critical areas, useable building envelopes (5,000 square feet or more for residential uses) shall be provided on the plat that lies outside said critical areas.
- iii. New lots partially within the floodplain shall provide a usable building envelope (5,000 square feet or more for residential uses) outside the floodplain;
- iv. New lots entirely within the floodplain shall be at least one (1) acre in area;
- v. For new lots containing streams, wetlands, and/or vegetative buffers, outdoor use envelopes shall be provided on the plat that lies outside said critical areas;
- vi. Degraded vegetative buffers shall be restored, or provided with protection measures that will allow them to recover;
- vii. Floodplains and critical areas shall be depicted on preliminary subdivision plats and relevant information about them disclosed on the final plat.
- viii. Lots or parcels that lie entirely within a Geologically Hazardous Areas (excluding Erosion, Over Steepened Slopes of Intermediate Risk, Stream Undercutting, and Earthquake hazards), FEMA Floodway, Channel Migration Zone (CMZ), Stream, Wetland, and/or Vegetative Buffers may not be further divided.

17.09.020 Flood Hazard Areas

FLOOD HAZARD AREAS – GENERAL PROVISIONS

- A. Flood Hazard Areas Established. The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA), accompanying Flood Insurance Rate Maps (FIRMs), Flood Boundary, and Floodway Maps, and any amendments thereto made by the Federal Emergency Management Agency, which, are adopted by reference and declared to be part of Section 17.09.020 of the City of Yakima's Critical Areas Ordinance and are established as flood hazard areas. The Flood Insurance Study and maps are on file with the City of Yakima, Washington.
- B. Principles. Section 17.09.020 recognizes the right and need of the river channel to periodically carry more than the normal flow of water and establishes regulations to minimize loss of life and property, restrict uses and regulate structures consistent with the degree of flood hazard. In advancing the above principals, the intent of Section 17.09.020 is:
 - 1. To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
 - 2. To meet the minimum requirements of the National Flood Insurance program; and,
 - 3. To implement state and federal flood protection programs.
- C. Applicability. The guidelines and regulations set forth herein, YMC Title 11, and related Building Codes shall apply to all special flood hazard areas.
 - 1. The provisions of Section 17.09.020 of this Chapter shall apply to any development proposed in a special flood hazard area;

2. Flood hazard permits shall be approved by the City of Yakima. Approval shall only be granted in accordance with Section 17.09.020 of this Chapter and other applicable local, state, and federal regulations;
 3. Topographic, engineering and construction information necessary to evaluate the proposed project shall be submitted to the department for approval; and,
 4. The granting of a permit for any development or use does not constitute a representation, guarantee or warranty of any kind or nature by the City of Yakima, or its employees, of the practicality or safety of any structure or proposed use, and shall not create liability upon or cause action against the above mentioned body, or employee, for any damage that may result.
- D. Documented Exemptions. The following uses and activities are exempt from the provisions of Section 17.09.020 of this Chapter, but are not exempt from this SMP (Title 17) or related shoreline permit requirements in Chapter 17.13:
1. The alteration or substantial improvement of any structure listed on the National Register of Historic Places or state inventory of historic places;
 2. The installation and maintenance of aboveground utility transmission lines and poles; and,
 3. Private driveways, fences and other accessory activities and/or uses necessary for agricultural uses which the administrative official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse.
- E. Interpretations
1. In the interpretation and application of Section 17.09.020 of this Chapter, the provisions shall be considered as minimum requirements; and shall be strictly construed in favor of the policies and standards herein; and deemed neither to limit nor repeal any other powers granted under state statute. Its provisions shall be applied in addition to and as a supplement to provisions of the Yakima Municipal Code Title 11, Buildings; Title 12, Development Standards; Title 14, Subdivisions; and, Title 15, Urban Area Zoning Ordinance. YMC 17.09.020.A - 17.09.020.AG are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where these ordinances and other ordinances conflict or overlap, the standard imposing the more stringent requirement shall prevail.
 2. In an interpretation as to an exact location of the boundaries of the special flood hazard areas (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of the National Flood Insurance Program § 60.6 (See 44 CFR 59, et seq. and IBC 104.1).
- F. Compliance. No structure or land shall hereafter be used, constructed, located, extended, converted, or altered without full compliance with the terms of Section 17.09.020 of this Chapter and other applicable regulations.
- G. Warning and Disclaimer of Liability. The degree of flood protection required by Section 17.09.020 of this Chapter 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. Section 17.09.020 does not imply that land outside the area of special flood hazards or permitted uses within such area will not be subject to flooding or flood damage.

FLOOD HAZARD PROTECTION STANDARDS

- H. General Standards. The following regulations shall apply in all special flood hazard areas pursuant to the IBC, ASCE-24, and Hud 24 CFR Part 3280:
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 (100) 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 (100) feet of the floodway or one hundred (100) 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. All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 3. Subdivision Proposals. Subdivision proposals shall:

- a. Be consistent with the need to minimize flood damage;
 - b. Have roadways, public utilities and other facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. Have adequate drainage provided to reduce exposure to flood damage;
 - d. Include base flood elevation data; and,
 - e. In the cases where base flood elevation is not available and the subdivision is greater than 5 acres or 50 lots, a step-back water analysis shall be required to generate the base flood elevation data.
4. Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a watercourse in riverine situations, the department shall notify adjacent communities, the Department of Ecology and FEMA of the proposed development.
- I. Specific Standards .In all special flood hazard areas where base elevation data has been provided as set forth in YMC 17.09.020.A, the following regulations shall apply, in addition to the General Standards of YMC 17.09.020.H:
1. Residential Construction. (See IRC 323.2)
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation.
 - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade; and,
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - c. Residential construction within one hundred (100) feet of a floodway, or the ordinary high water mark if no floodway has been established, shall also meet the requirements of YMC 17.09.020.H.1.c.
 2. Nonresidential Construction (44 CFR 60.3(C)(3) & (4)). New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans; and,
 - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in YMC 17.09.020.I.1.b.
3. **Manufactured Homes.** Manufactured homes shall be anchored in accordance with Section 16A.05.28.010(1)(b), shall have the lowest floor elevated to or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with YMC 17.09.020.H.1.b.
 4. **Recreational Vehicles.** Recreational vehicles placed on sites are required to either:
 - a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or,
 - c. Meet the anchoring requirements of YMC 17.09.020.H.1.b.

FLOODWAY FRINGE USES

- J. **Permitted Uses.** The following uses are permitted in the floodway fringe areas:
 1. **Permitted Uses.** Any use permitted in the zoning district in accordance with YMC Title 15 [and in the environment designation in accordance with YMC Title 17 \(this Shoreline Master Program\)](#), unless prohibited by YMC 17.09.020.K.
 2. **Utility Transmission Lines.** Utility transmission lines shall be permitted when consistent with YMC Title 15 and where not otherwise inconsistent with Section 17.09.020; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:
 - a. Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed.
 - b. Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four (4) feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of YMC 17.05.050.C.3.c.
 - c. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and non-hazardous materials shall be buried below existing natural and artificial drainage features.

- d. Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of non-hazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.
 - e. Aboveground utility transmission line appurtenant structures, including valves, pumping stations or other control facilities, shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available, or in the event a floodway fringe or special flood hazard location is environmentally preferable. This does not apply to domestic water and regional wastewater transmission pipes. In such instances, aboveground structures shall be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately floodproofed.
- K. Prohibited Uses. New manufactured home parks and the expansion of manufactured home/parks are prohibited in floodway fringe areas.

FLOODWAY USES

- L. Permitted Uses. Permitted uses include any use permitted in the zoning district in accordance with YMC Title 15 and in the environment designation in accordance with YMC Title 17 (this Shoreline Master Program), provided that said use is in compliance with the flood hazard protection standards of YMC 17.09.020.H, & 17.09.020.I, 17.05.050 and other applicable provisions of this Chapter Title, and will have a negligible effect upon the floodway in accordance with the floodway encroachment provisions of YMC 17.09.020.M.2. Permitted uses include:
1. All encroachments, including fill, new construction and other development unless as certificated by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice. The analysis must demonstrate that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not:
 1. materially cause water to be diverted from the established floodway,
 2. cause erosion,
 3. obstruct the natural flow of water,
 4. reduce the carrying capacity of the floodway, or
 5. result in any increase in flood levels during the occurrence of the base flood discharge;
 2. 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 YMC Title 15;
 3. Utility transmission lines, unless otherwise prohibited by this Chapter; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:
 - a. All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways;
 - b. Electric

~~transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed; c. Buried utility transmission lines transporting hazardous and non-hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four (4) 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 the City of Yakima, which shall assume the conditions of a one hundred (100) 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 City of Yakima Shoreline Master Program Regulations; d. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and non-hazardous materials shall be buried below existing natural and artificial drainage features; and, e. Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of non-hazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the one hundred (100) year flood level, the transmission line shall be placed on the downstream side and protected from flood debris. In such instances, site-specific conditions and flood damage potential shall dictate placement, design and protection throughout the floodway. Applicants must demonstrate that such aboveground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be adequately protected from flood damage. If the transmission line is to be buried except at the waterway crossing, burial specifications shall be determined as in subsection (C)(3) above.~~

- ~~4. Construction or reconstruction of residential structures only as authorized in YMC 15.27.412(E);~~
- ~~5. Improvements to existing residential structures that are not substantial improvements per YMC 15.27.200, provided the improvement complies with the requirement set forth in YMC 15.27.412(B);~~
- ~~6. Water dependent utilities and other installations which by their very nature must be in the floodway. Examples of such uses are: dams for domestic/industrial water supply, wastewater treatment and collection systems; stream crossings or wetlands, flood control and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement, floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; and structures and nonstructural uses and practices; provided, that the applicant shall provide evidence that a floodway location is necessary in view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this Chapter and Title. In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection (C) above;~~
- ~~7. Dikes, provided that the applicant can provide evidence that:~~

~~a. Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences; b. Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired; c. The proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and, 8. Roads and bridges, subject to the regulations of subsection (C)(1-5) above.~~

M. 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 YMC 15.04.130 & 15.04.140);
2. Any encroachments, including fill, new construction and other development ~~shall require certification demonstrated~~ 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. Aboveground utility transmission line appurtenant structures, including valves, pumping stations, or other control facilities, shall not be permitted in the floodway, except for domestic water and regional wastewater facilities where necessary;
4. Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified one-hundred (100) year flood event;
5. Construction or reconstruction of residential structures within designated floodways, except ~~for~~ as allowed under YMC Ch. 17.11;
 - ~~a. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and~~
 - ~~b. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the assessed value of the structure either~~
 - ~~i. Before the repair, reconstruction or improvement is started; or,~~
 - ~~ii. If the structure has been damaged and is being restored, before the damage occurred.~~
 - ~~c. 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 (50) percent.~~
 - ~~d. If subsection 2 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 17.09.020.~~

6. The construction or storage of any object subject to flotation or movement during flood level periods;
 7. 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 YMC 17.09.030, Fish and Wildlife Habitat and the Stream Corridor and YMC 17.09.040, Wetlands;
 - b. Solid waste landfills, dumps, junkyards, outdoor storage of vehicles, and/or materials; and,
 - 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 (See YMC 17.09.030.J).
 8. 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.
- N. Non-Conforming Uses and ~~Facilities-Structures. Existing structures and uses~~
- ~~1. Within the special flood hazard areas established by YMC ~~Ch. 15.1917.09.020~~ or amendments thereto, ~~there may exist structures and uses of land and structures,~~ which were lawful before these sections were adopted or amended, but which would be prohibited, or restricted under the terms of Section 17.09.020 of this Chapter or future amendment, are governed under -~~
 - ~~2. It is the intent of YMC Ch. ~~15.1917.11~~ to permit these lawful pre-existing nonconformities to continue until they are removed by economic forces or otherwise, but not to encourage their survival except in cases where continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of this Chapter.~~

FLOOD HAZARD PROTECTION ADMINISTRATION

- O. Administration. The building official is vested with the duty of administering the rules and regulations relating to flood hazard protection in accordance with the provisions of Section 17.09.020 and may prepare and require the use of such forms as are essential to such administration.
- P. Authority. Upon application, the building official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Section 17.09.020 of this Chapter and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of the policies of the Critical Areas Ordinance.
- Q. Permit – Required. Prior to any development within a special flood hazard area, a flood hazard permit shall be obtained. This permit may be in addition to the critical area development authorization as set forth in YMC 17.09.010, and any applicable shoreline permit as set forth in Chapter 17.13 of this Title.
- R. Permit – Application. All persons applying for a flood hazard permit shall submit a written application, accompanied by an application fee as specified in Title 11, using the forms supplied. The application shall not be considered complete until the following minimum information is provided as identified below and in YMC 15.11.050:
 1. Name, address and telephone number of applicant and property owner if different;

2. Project description and taxation parcel identification number;
3. Name of the stream or body of water associated with the floodplain in which the development is proposed; and,
4. Site plan map drawn to an engineering scale showing:
 - a. Actual dimensions and shape of the parcel to be built on;
 - b. Sizes and location of existing structures on the parcel;
 - c. Location and dimensions of the proposed development, structure or alteration;
 - d. Location, volume and type of any proposed fill; and,
 - e. The application shall include other information as may be required by the Administrative Official to clarify the application for the enforcement of Section 17.09.020;
- S. Permit – Review. Flood hazard permit applications will be reviewed to determine:
 1. The elevation and floodproofing requirements of Section 17.09.020 of this Chapter;
 2. The proposed development’s location in relation to the floodway and any encroachments (YMC 17.09.020.M.2);
 3. Alteration or relocation of a watercourse (YMC 17.09.020.H.4.c);
 4. That the proposed development is a permitted use under Section 17.09.020 of this Chapter and YMC Title 15; and,
 5. That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- T. Use of Available Data. When base flood elevation data has not been provided in accordance with YMC 17.09.020.A, Flood hazard areas established, the City shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer YMC 17.09.020.I, YMC 17.09.020.M, and YMC 17.13.150.
- U. Limitations. Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized is a violation of Section 17.09.020 and punishable as provided by YMC 17.13.150.
- V. Permit – Expiration & Cancellation. If the work described in any permit has not begun within one hundred eighty (180) days from the date of issuance thereof, the permit shall expire and be canceled by the building official.
- W. Performance Bonds
 1. The City may require bonds in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with approvals under Section 17.09.020. Bonds, if required, shall be furnished by the property owner, or other person or agent in control of the property.

2. In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the City in an amount equal to that which would be required in the surety bond.
- X. 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 YMC 17.13.120.
- Y. Coordination. Upon application, the building official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Section 17.09.020 of this Chapter 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 Chapter.

ELEVATION AND FLOODPROOFING CERTIFICATION

- Z. Applicability. Certification for elevation or floodproofing 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.
- AA. Certification Form. The form of the elevation and floodproofing certificate shall be specified by the administrative official and shall be generally consistent with that required by FEMA for the administration of the National Flood Insurance Program.
- AB. 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 in mean sea level of flood proofing of all new or substantially improved non-residential flood proofed structures; and,
 3. Where a base flood elevation has not been established according to YMC 17.09.020.A, or where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
- AC. Certification Responsibility. The project proponent shall be responsible for providing required certification data to the administrative official prior to the applicable construction inspection specified in the certification form. All elevation and floodproofing data specified in YMC 17.09.020.AB must be obtained and certified by a registered professional engineer, architect, or surveyor. The elevation and floodproofing certification shall be permanently maintained by the administrative official.

FLOOD HAZARD VARIANCES

- AD. Procedure. Any person seeking a variance from the requirements of Section 17.09.020 authorized under YMC 17.09.020.AE shall make such request ~~in writing to the planning department on the forms they supply~~ consistent with the procedures established in YMC Chapter 17.13. ~~Upon receipt of a completed application and application fee for the variance, a notice of the variance request shall be forwarded to all landowners of adjacent property within~~

~~twenty eight (28) days of the receipt of a completed application and payment of fees. The notice shall solicit written comment on the variance request and specify a time period not less than twenty (20) days from the date of mailing, during which written comments may be received and considered. The notice shall also state that copies of the administrative official's final decision will be mailed upon request. The administrative official may also solicit comments from any other person or public agency he or she feels may be affected by the proposal.~~

AE. Variance Limitations

1. Variances shall be limited solely to the consideration of:
 - a. Elevation requirements for lowest floor construction;
 - b. Elevation requirements for floodproofing; and,
 - c. The type and extent of floodproofing.
2. Variances shall not be considered for any procedural or informational requirements or use prohibitions of Section 17.09.020.

AF. Conditions for Authorization. In addition to demonstrating consistency with the Shoreline Variance criteria in YMC 17.13.080, the applicant ~~Before~~ a variance to the provisions of Section 17.09.020 ~~may be authorized, it shall be shown~~ that:

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

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

~~AH. Notification and Final Decision. The decision shall be issued within seven (7) days from the end of the comment period. Further, the administrative official shall mail the findings and decision to the applicant and to other parties of record requesting a copy.~~

~~AI. Power to Refer Decisions. In exercising the duties and powers of implementing and administering Section 17.09.020 of this Chapter, the administrative official may refer any variance application to the hearing examiner for action at a public hearing.~~

~~AJ. Appeals. Any decision by the administrative official to approve or deny a variance request may be appealed subject to the procedures set forth in YMC Ch. 15.16.~~

AG. Federal Flood Hazard Map Correction Procedures. The procedures for federal flood hazard map correction, as provided in federal regulations 44 CFR 70 of the National Insurance Program are hereby adopted by reference.

17.09.030 Fish and Wildlife Habitat and the Stream Corridor System

A. Purpose and intent. The stream corridor system includes hydrologically related critical areas, streams, lakes, ponds, and wetlands and is part of a fragile and highly complex relationship of geology, soils, water, vegetation, and wildlife. Policies and standards to help conserve and protect are designed to accomplish the following:

1. Meet the requirements of the ~~Growth-Shoreline~~ Management Act (RCW ~~36.70A.17290.58~~) regarding the use of the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern~~best available science~~;
2. Follow the requirements pursuant to flood-resistant construction in the adopted building code;
3. Provide a zero net loss of natural wetland functions and values;
4. Provide possible alternatives for necessary development, construction, and uses within a designated stream corridor and other hydrologically related critical areas;
5. Prevent decline in the quantity and quality of surface and subsurface waters;
6. Conserve, restore, and protect fish and wildlife habitats, vegetation, and ecological relationships;
7. Protect sensitive areas of the stream corridor from the potential negative effects of development;
8. Through voluntary agreements or government incentives, provide protection of natural wetland functions and values; and
9. Recognize wildlife area conservation habitats within their natural geographic location through coordinated land use planning.

B. Protection approach.

1. To maintain fish and wildlife habitat, there must be adequate environmental conditions for reproduction, foraging, resting, cover, and dispersal of animals. Factors affecting both habitat and its quality include the presence of essential resources such as food, water, nest building materials, and lack of diseases. The city of Yakima protects fish and wildlife habitat through:
 - a. Protection of habitat for aquatic species; and
 - b. Protection of habitat for species located near the water.

2. The city of Yakima's approach to protecting threatened, endangered, and sensitive species habitat is by using the protection approach sections of this chapter.

DESIGNATION AND MAPPING

- C. Hydrologically related critical area features. Stream corridors and other hydrologically related critical areas include one or more of the following features:
 1. Any floodway or floodplain identified as a special flood hazard area identified by the Federal Emergency Management Agency (FEMA), as identified in the flood insurance study or corresponding maps, is hereby adopted by reference and declared to be part of this chapter;
 2. Perennial and intermittent streams, excluding ephemeral streams, including the stream main channel and all secondary channels within the ordinary high water mark;
 3. Naturally occurring ponds under twenty acres and associated submerged aquatic beds; and manmade lakes and ponds created within a stream channel;
 4. All wetlands as defined in YMC 17.01.090;
 5. Any flood-prone area indicated by U.S. Soil Conservation Service soil survey data; and
 6. A buffer area for a stream channel, lake, or pond or from the edge of a wetland.
- D. Habitat and habitats of local importance.
 1. Habitats of local importance are habitats or species that due to their declining population, sensitivity to habitat manipulation or other values make them important on a local level. Habitats of local importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
 2. Species and habitats of local importance may be identified for protection under this chapter. State or local agencies, individuals or organizations may identify and nominate for consideration specific species and habitats, or a general habitat type, including streams, ponds or other features. Proponents shall have the burden of presenting evidence concerning the criteria set forth below. The nomination shall be processed once a year through the annual comprehensive plan amendment cycle.
 - a. The decision for changes to species and habitats of local importance shall consider:
 - i. Concern due to population status;
 - ii. Sensitivity to habitat manipulation;
 - iii. Importance to the local community; and
 - iv. Criteria used to identify state priority species, which include:
 - a) State candidate species that are defined by WDFW Policy M-6001 to include fish and wildlife species that WDFW will review for possible listing as state endangered, threatened, or sensitive;
 - b) Vulnerable aggregations, which includes those species or groups of animals susceptible to significant population declines, within a specific area, by virtue of their inclination to aggregate;

- c) Species of recreational, commercial, and/or tribal importance that are vulnerable; and
 - d) The economic impact both positive and negative to the applicant's property or surrounding property. Economic impact is to be determined by a properly qualified individual or firm using industry standards.
 - b. Nominated habitats and habitats for species of local importance shall consider the following and must include maps to illustrate the proposal:
 - i. A seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain or reproduce over the long term;
 - ii. Areas of high relative density or species richness, breeding habitat, winter range, and movement corridors;
 - iii. Habitat with limited availability or high vulnerability to alteration; and
 - iv. Whether these habitats are already identified and protected under the provisions of this or other local ordinances or state or federal law.
 - c. Habitat management recommendations shall be included for use in the administration of this section.
 3. Development Standards. Projects located within habitats of local importance, as designated in subsection 1 of this section, shall meet the standards below, rather than the development standards in YMC 17.09.050.I-P, unless review is also needed for a hydrologically related critical area. Projects shall be designated using management recommendations established for the species or habitat by federal and state agencies, or those adopted for species and habitats of local importance by the city of Yakima. The Department shall consider the extent such recommendations are used in its decision on the proposal, and may consider recommendations and advice from agencies with expertise.
- E. Functional properties.
1. Streams, lakes, ponds and wetlands require a sufficient riparian area to support one or more of the following functional properties:
 - a. Stream bank and shore stabilization;
 - b. Providing a sufficient shade canopy to maintain water temperatures that support fish and their habitat;
 - c. Moderating the impact of stormwater runoff;
 - d. Filtering solids, nutrients and harmful substances;
 - e. Surface erosion prevention;
 - f. Providing and maintaining migratory corridors for wildlife;
 - [g. Providing food in the form of various insects and other benthic macroinvertebrates;](#)
 - h. Supporting a diversity of wildlife habitats; or
 - i. Allowing for the natural occurrence of woody debris and organic matter to collect in the aquatic environment.

2. Stream channels assist in one or more of the following functional properties:
 - a. Groundwater recharge and/or discharge;
 - b. Water transport;
 - c. Sediment transport and/or storage;
 - d. Biochemical functions;
 - e. Channel migration and the protection of habitats; or
 - f. Food and habitat.
 3. Lakes, ponds and wetlands generally provide similar functions and generally provide one or more of the following functional properties:
 - a. Biogeochemical functions that improve water quality;
 - b. Hydrologic functions maintaining the water regime in a watershed (flood flow attenuation, decreasing erosion, and groundwater recharge); or
 - d. Food and habitat.
 4. Floodplains generally provide one or more of the following functional properties:
 - a. Floodwater storage;
 - b. Floodwater passage and the movement of high-velocity waters;
 - c. Sediment storage and recruitment;
 - d. Food and habitat;
 - e. Nutrient sink and/or source; or
 - f. Groundwater recharge and discharge.
 5. Habitat for wildlife consists of the arrangement of food, water, cover, and space. Wildlife habitat generally includes one or more of the following functional properties:
 - a. Reproduction and/or nesting;
 - b. Resting and refuge;
 - c. Foraging for food; or
 - d. Dispersal and migration.
 6. Some functions require larger areas, which may not be achievable due to existing development and construction constraints, especially in urban areas. In these instances, adjustments to the minimum standards to accommodate such constraints may be necessary. Where adjustments may be necessary, reductions of standards should be offset by enhancement, restoration or preservation measures which replace the lost functions or values or strengthen other functional values if replacement is not possible.
- F. Streams, lakes and ponds typing system. For purposes of this chapter, the city of Yakima hereby adopts a stream, lake and pond typing system, for those features designated as critical areas in YMC 17.09.030.C as follows:

1. Type 1 streams are those waters, within their ordinary high water mark (OHWM), meeting the criteria as “shorelines of the state” and “shorelines of statewide significance” under RCW Chapter 90.58. ~~Waters associated with Type 1 streams as defined in RCW Chapter 90.58 are not included;~~
 2. Type 2 streams are those surface water features which require protection due to the nature of their contributions to the functional properties listed in YMC 17.09.030.E and are considered “streams, lakes and/or ponds of local importance,” as listed in Appendix B of this title;
 3. Type 3 streams include all perennial streams within the city of Yakima not classified as Type 1 or 2. (See YMC 17.01.090, “perennial stream”);
 4. Type 4 streams are all intermittent streams within the city of Yakima not classified as Type 1, 2 or 3. (See YMC 17.01.090, “intermittent stream”);
 5. Type 5 streams are all ephemeral streams within the city of Yakima not classified as Type 1, 2, 3 or 4. Type 5 streams are not regulated as streams. (See YMC 17.01.090, “ephemeral stream”); and
 6. Lakes and Ponds.
 - a. Lakes and ponds not designated as a shoreline that receive water from ~~the OHWM of a~~ Type 2, 3, or 4 stream shall have the same surface water type as the highest stream type from which the lake or pond receives water.
 - b. Natural lakes and ponds, not designated as a shoreline, that do not receive water from ~~the OHWM of a~~ Type 1, 2, 3, or 4 stream shall be Type 3 ponds.
 - c. Lakes or ponds not designated as a shoreline that are connected to a Type 1 stream shall be Type ~~1-2~~ ponds.
- G. Wetland rating system.
1. Wetlands within the city of Yakima are defined in YMC 17.01.090 and are shown on the data maps referenced in YMC 17.09.030.H. Most, but not all, of the wetlands within the city of Yakima occur near streams. The functional properties for wetlands are identified in YMC 17.09.030.E and YMC 17.09.040.D.
 2. For regulatory purposes, wetlands are classified into four categories according to the wetland rating system found in YMC 17.09.040.D.2.
- H. Maps. Certain fish and wildlife habitat and hydrologically related critical areas have been inventoried and are depicted on a series of paper and electronic maps. The maps do not officially define the extent or characteristics of specific critical areas, but rather the potential physical boundaries and characteristics. Maps may be both regulatory and non-regulatory in nature as described below:
1. Regulatory maps include any floodway or floodplain identified as a special flood hazard area by the Federal Emergency Management Agency (FEMA) as identified in the flood insurance studies (FIRMs).
 2. Informational maps indicate the approximate presence, location and/or typing of the potential critical area. Informational maps include, but are not limited to, the following:

- a. Wetlands;
 - b. Streams;
 - c. Channel migration zone; and
 - d. Species and habitats of local importance. Note: This map will be generated at such a time when the city of Yakima formally adopts a species or habitat of local importance.
3. Other nonregulatory information sources include maps or other data sources, but are not limited to:
- a. Comprehensive flood hazard management plans;
 - b. Soil survey of the city of Yakima;
 - c. Surface geologic maps;
 - d. Historic and current aerial photo series; and
 - e. Geohydraulic studies—geologic cross-sections showing aquifers and confining units.

GENERAL DEVELOPMENT STANDARDS

- I. Prohibited uses. The following uses and activities are prohibited within a designated hydrologically related critical area:
1. Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;
 2. The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;
 3. The draining or filling of a wetland, lake or pond, except as provided for in YMC 17.07.070.B;
 4. The removal and transport of material for fill outside of the stream corridor;
 5. Site runoff storage ponds, holding tanks and ponds, and other similar waste disposal facilities. Note: This provision does not include regional wastewater plant facilities, collection pipes, septic systems approved by a local or state agency, and other related facilities;
 6. Solid waste disposal sites;
 7. Automobile wrecking yards;
 8. Fill for the sole purpose of increasing land area within the stream corridor;
 9. Uses located within the floodway fringe that are listed in YMC 17.09.020.K; and
 10. Uses located within the floodway that are listed in YMC 17.09.020.M.
- J. General policies and standards. The following policies and standards shall apply to any development, construction, or use carried out within a designated hydrologically related critical area:
1. The ordinary high water mark of a stream or lake, and the edge of a wetland, shall be marked on the ground before any development, construction, or use is initiated;

2. Existing vegetation and any vegetative species pertinent to the critical area identified on the project site within the stream corridor shall only be disturbed to the minimum extent possible;
3. Nesting areas and other sensitive habitat identified within a stream corridor shall be disturbed to the minimum extent possible;
4. Projects within the stream corridor shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered;
5. The following measures are incorporated into ~~Developments that obtain a stormwater permits~~ approved by a local, state or federal agency and transportation projects using the Stormwater Management Manual for Eastern Washington. Developments that do not require a stormwater permit ~~are exempt from~~ shall also incorporate the following elements into project design:
 - a. Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load;
 - b. The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion;
 - c. Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor shall provide on-site facilities for detention, control, and filtration if potential increases have been identified to occur;
 - d. The discharge point for controlled stormwater runoff shall be designed and constructed to avoid erosion; and
 - e. Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established;
- ~~6. Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances;~~
6. Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property shall be corrected;
7. Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor;
8. Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters;

9. Development, construction, or uses within the stream corridor shall not alter or divert flood flows, cause channel shift, erosion, and increase or accelerate the flooding of upstream or downstream flood hazard areas;
10. Structures placed in close proximity to the outer edge of bends in stream channels shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration;
11. The Department of Ecology and adjacent communities shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency;
12. Maintenance shall be provided for the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- ~~14. Development, construction, or uses within the hydrologically related critical area shall be mitigated using mitigation sequencing as outlined in YMC 15.27.307;~~
13. Development shall not obstruct, cut off, or isolate stream corridor features;
14. Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership;
- ~~17. If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify the city of Yakima, the Washington State Office of Archaeology and Historic Preservation and any affected Indian nation. Archaeological sites are subject to RCW Chapters 27.44 and 27.53. Development or uses that may impact such sites shall comply with WAC Chapter 25-48, Archaeological Excavation and Removal Permit;~~
15. Projects located within the floodway must meet the requirements of YMC YMC 17.09.020.L; and
16. Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using the reclamation found in YMC 17.09.030.Q.

WATER DEPENDENCY DEVELOPMENT STANDARDS AND BUFFER REQUIREMENTS

- K. Use classifications. For purposes of this section, the components of any development, construction, or use requiring a critical area development authorization shall be classified as provided below, and shall conform to the development standards applicable to the classification provided in YMC 17.090.030.L-O:
 1. Water-oriented uses are one of the following ~~two~~ three categories of uses, as defined in YMC 17.01.090: water-dependent, water-related, or water-enjoyment, or a combination of such uses.
 - ~~1. Water dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland crossings for roads and railroads, stream and wetland crossings for utilities, swimming beaches, fishing sites, in-water or on-land shore stabilization structures, livestock watering sites, and other uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their~~

~~operations. This provision applies only to the specific portion of a project that is demonstrably dependent upon the water or shore.~~

~~2. A water-related use is one not intrinsically dependent on a waterfront location but whose economic viability is enhanced by a waterfront location, either because it requires large quantities of water or because it provides services for water-dependent uses and the proximity to its customers makes such services less expensive and/or more convenient. Examples would include thermal power plants, sewage treatment plants, water processing and treatment plants, support services for fish hatcheries or aquaculture, fly shops and boat rental shops.~~

2. Non-water-oriented uses include any use not qualifying as uses in subsection 1 of this section.

L. Water-dependent uses. The following provisions shall apply to water-dependent uses:

1. Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore.
2. Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in YMC 17.09.030.P.
3. Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.

M. Water-related uses. The following provisions shall apply to water-related uses:

1. Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.
2. Structures and use areas shall not be located within the vegetative buffer specified in YMC 17.09.030.P except where existing development or the requirements associated with the use make such a location unavoidable.

N. Water-enjoyment uses. The following provisions shall apply to water-enjoyment uses:

1. Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.
2. Structures and use areas may be located within the vegetative buffer specified in YMC 17.09.030.P provided that the location and construction shall be conducted to minimize impacts to the shore area and the vegetative buffer.

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

1. Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in YMC 17.09.030.P.
2. Construction abutting the vegetative buffer specified in YMC 17.09.030.P shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

- P. Vegetative buffers. The establishment of a vegetative buffer system is necessary to protect the functions and values of certain hydrologically related critical areas. Standard and minimum buffers for streams, lakes, ~~and ponds, and wetlands~~ are listed in Tables ~~27.5-109.030-1~~. See [YMC 17.09.040 for wetland buffer regulations and 27.5-2](#).
1. Vegetative buffers shall be measured from the ordinary high water mark for streams, lakes, and ponds, ~~and from the edge of the wetlands~~. The width of the buffer shall be determined according to the stream ~~or wetland~~ type. ~~Buffer width may be reduced through an adjustment permit process (YMC 15.27.317). However, the administrative official may not approve reductions to the standard buffer widths for wetlands that score medium (twenty through twenty eight points) or high (twenty nine through thirty six points) for wetland habitat function, except where it can be shown that a particular wildlife species' needs within the buffer can be met with a smaller buffer.~~
 - ~~2. Type 1 streams, lakes, and ponds are protected by the shoreline master program and are not part of this title.~~
 - ~~3. The minimum buffer widths listed in Tables 27.5-1 and 27.5-2 are the lowest possible buffer widths allowed by means of the adjustment process. Adjustments below the minimum buffer width must meet additional approval criteria as provided in YMC 15.27.317(C)(4).~~
 2. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.
 - a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.
 - b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

Consultant Note: Based on input from Ecology, the City was encouraged to review the County shoreline buffers and modify them to address City-specific local conditions. Accordingly, conditions in the City and UGA were reviewed on Google Earth to support development of the following environment designation-specific buffer strategy. Note that the Yakima County SMP applied 100-foot buffers universally to shorelines, with no distinction between environment designations or between rivers/streams and lakes. Also note that Ecology indicated that the 100-foot buffer for the Floodway/CMZ designation should not be reduced.

Table 09.030-1. Standard Stream Buffers.

Stream Type	Buffer Width—standard
Type 1 shoreline streams, and lakes, and ponds	400' High Intensity: Streams: 75' Lakes: 50' Essential Public Facilities: 100' Floodway/CMZ: 100' Shoreline Residential: Streams: 80' Lakes: 20' Urban Conservancy: 100'
Type 2 streams, lakes,	75' (25')

and ponds	
Type 3 streams (perennial), lakes, and ponds	50'/(25')
Type 4 streams (intermittent), lakes, and ponds	25'/(15')
Type 5 streams (ephemeral)	No buffer standards. Type 5 streams are not regulated as streams, but may be protected under geologically hazardous area, floodplain, stormwater, construction, grading or other development regulations.

~~—The administrative official may not approve reductions to the standard buffer widths for wetlands that score medium (twenty through twenty-eight points) or high (twenty-nine through thirty-six points) for wetland habitat function, except where it can be shown that a particular wildlife species' needs within the buffer can be met with a smaller buffer.~~

~~Table 27.6-2~~

Type 1 Wetlands (standard/minimum)	Type 2 Wetlands (standard/minimum)	Type 3 Wetlands (standard/minimum)	Type 4 Wetlands (standard/minimum)
200'/100'	150'/75'	100'/50'	50'/25'

3. Where a legally established road or railway crosses a shoreline or critical area buffer, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved road if a study submitted by the applicant and prepared by a qualified professional demonstrates that the part of the buffer on the upland side of the road sought to be reduced:

- a. does not provide additional protection of the shoreline waterbody; and
- b. provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody.

If the improved roadway corridor is wider than 20 feet, a study is not required.

4. Buffer averaging³ to improve stream protection may be permitted when all of the following conditions are met:

- a. The stream or riparian corridor has significant differences in characteristics that affect its habitat functions.
- b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the stream and decreased adjacent to the lower-functioning or less-

³ Buffer averaging: The regulatory alteration of the dimensions of a buffer that allows for increases and decreases in the buffer in discrete areas provided that the net area of buffer remains the same.

- sensitive portion as demonstrated by a critical areas report from a qualified professional.
 - c. The total area of the buffer after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than $\frac{3}{4}$ of the required width.
 - 5. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - b. The averaged buffer will not result in degradation of the stream or riparian corridor's functions and values as demonstrated by a critical areas report from a qualified professional.
 - c. The total buffer area after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than $\frac{3}{4}$ of the required width.
 - 6. All other proposals to reduce a stream buffer may only be approved through the Shoreline Variance process.
- Q. Reclamation. The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:
 1. Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation;
 2. Large-scale projects that extend over several months shall be phased to allow reclamation of areas where work or operations have been completed;
 3. Reclamation shall be scheduled to address precipitation, meltwater runoff, the growing season, and other seasonal variables that influence restoration and recovery;
 4. Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas;
 5. Where existing development and construction prevent return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent stream corridor degradation;
 6. Cut-and-fill slopes shall be stabilized at, or at less than, the normal angle of repose for the materials involved;
 7. For the replacement or enhancement of vegetation within wetlands and required vegetative buffers naturally occurring, native plant species shall be used; and
 8. In other parts of the stream, naturally occurring, native plant species shall be used, unless a showing of good cause acceptable to the administrative official or designee is provided. Should good cause be shown, then self-maintaining or low-maintenance plant species compatible with the native vegetation shall be used in place of non-native and high-maintenance species.

17.09.040 Wetlands

- A. Purpose and Intent. The purpose and intent of the provisions protecting wetland critical areas is equivalent to the purpose and intent for YMC 17.09.030.
- B. Designating and Mapping
1. Consistent with WAC 173-22-035, wetlands in shoreline jurisdiction shall be delineated using the procedure outlined in the approved federal wetland delineation manual and applicable regional supplements.
 2. Wetlands are all areas meeting the definition for wetlands as defined in YMC 17.01.090 and are hereby designated critical areas which are subject to YMC Ch. 17.09, except the following:
 - a. Irrigation systems that create an artificial wetlands; and,
 - b. Areas where changes in irrigation practices have caused wetland areas to dry up.
 3. The approximate location and extent of wetlands are shown on maps maintained by the City of Yakima. These maps may include information from the National Wetlands Inventory produced by the U.S. Fish and Wildlife Service and are to be used as a guide for the City of Yakima.
- C. Protection Approach. Wetlands will be protected using the Protection Approach for Hydrologically Related Critical Areas found in YMC 17.09.030.B. Wetlands and their functions will be protected using the standards found in this section and in Section 17.09.030.
- D. Wetland Functions and Rating
1. Wetlands are unique landscape features that are the interface between the aquatic and terrestrial environments. Wetlands provide the following functions:
 - a. Biogeochemical functions, which improve water quality in the watershed (such as nutrient retention and transformation, sediment retention, metals, and toxics retention and transformation).
 - b. Hydrologic functions, which maintain the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, and groundwater recharge.
 - c. Food and habitat functions, which includes habitat for invertebrates, amphibians, anadromous fish, resident fish, birds, and mammals.
 2. Wetlands shall be rated based on categories that reflect the functions and values of each wetland and shall be based on the criteria provide in the Washington State Wetland Rating System for Eastern Washington, revised ~~August 2004~~March 2007 (Ecology Publication #04-06-15) which are summarized below:
 - a. Category I wetlands are more sensitive to disturbance than most wetlands, relatively undisturbed, and contain ecological attributes that are difficult to replace. Generally, these wetlands are not common and make up a very small percentage of the wetlands within the City of Yakima. The following types of wetlands are classified as Category I:
 - i. Wetlands scoring 70 points or more (out of 100) in the Eastern Washington Wetland Rating System (EWWRS),

- ii. Alkali wetlands,
 - iii. Natural heritage wetlands (wetlands identified by Washington Department of Natural Resources Natural Heritage Program scientists), and
 - iv. Bogs.
- b. Category II wetlands are difficult but not impossible to replace and provide high levels of some functions. Category II wetlands include:
- i. Wetlands scoring between 51-69 points (out of 100) in the EWWRS,
 - ii. Unassociated vernal pools, and
 - iii. Forested wetlands.
- c. Category III wetlands are often smaller, less diverse, and/or more isolated from other natural resources. Category III wetlands include:
- i. Wetlands with a moderate level of functions (scoring between 30 -50 points) in the EWWRS, and
 - ii. Associated vernal pools.
- d. Category IV wetlands have the lowest levels of functions, scoring less than 30 points in the EWWRS. Category IV wetlands are often heavily disturbed and are wetlands that should be able to be replaced.
3. Wetlands shall be rated as they exist on the day of project application submission. Information regarding the original condition of illegally modified wetlands that cannot be discerned from aerial photographs or other reliable information sources shall use the highest appropriate points value within each missing data field of the EWWRS rating sheet to complete the rating.

Consultant Note: This buffer table and other language added to this section was taken from the "Wetlands & CAO Updates: Guidance for Small Cities *Eastern Washington Version*" by Ecology, revised October 2012. This document, or other guidance documents prepared by Ecology, is required to be incorporated into wetland regulations applicable in shoreline jurisdiction. Note that these required buffers are smaller than the City's currently required buffers.

E. Wetland Buffers.

1. Vegetative buffers shall be measured from the edge of the wetland. The width of the buffer shall be determined according to the wetland type. The standard buffer widths are provided in Table 09.040-1 below.
- ~~1. The minimum buffer widths listed in Table 27.5-2 are the lowest possible buffer widths allowed by means of the adjustment process. Adjustments below the minimum buffer width must meet additional approval criteria as provided in YMC 15.27.317(C)(4).~~
2. The use of the standard buffer widths requires the implementation of the measures in Table 09.040-2, where applicable, to minimize the impacts of the adjacent land uses.
3. If an applicant chooses not to apply the mitigation measures in Table 09.040-2, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer.

4. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.
 - a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.
 - b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

~~—The administrative official may not approve reductions to the standard buffer widths for wetlands that score medium (twenty through twenty eight points) or high (twenty nine through thirty six points) for wetland habitat function, except where it can be shown that a particular wildlife species' needs within the buffer can be met with a smaller buffer.~~

Table 27.5-2

Type 1 Wetlands (standard/minimum)	Type 2 Wetlands (standard/minimum)	Type 3 Wetlands (standard/minimum)	Type 4 Wetlands (standard/minimum)
200'/100'	150'/75'	100'/50'	50'/25'

Table 09.040-1. Standard Wetland Buffers

<u>Wetland Category</u>	<u>Standard Buffer Width</u>	<u>Additional buffer width if wetland scores 21-25 habitat points</u>	<u>Additional buffer width if wetland scores 26-29 habitat points</u>	<u>Additional buffer width if wetland scores 30-36 habitat points</u>
<u>Category I: Based on total score</u>	<u>75ft</u>	<u>Add 15 ft</u>	<u>Add 45 ft</u>	<u>Add 75 ft</u>
<u>Category I: Forested</u>	<u>75ft</u>	<u>Add 15 ft</u>	<u>Add 45 ft</u>	<u>Add 75 ft</u>
<u>Category I: Bogs</u>	<u>190 ft</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Category I: Alkali</u>	<u>150 ft</u>	<u>N/A</u>	<u>NA</u>	<u>NA</u>
<u>Category I: Natural Heritage Wetlands</u>	<u>190 ft</u>	<u>N/A</u>	<u>NA</u>	<u>NA</u>
<u>Category II: Based on total score</u>	<u>75 ft</u>	<u>Add 15 ft</u>	<u>Add 45 ft</u>	<u>Add 75ft</u>
<u>Category II: Vernal pool</u>	<u>150</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Category II: Forested</u>	<u>75 ft</u>	<u>Add 15 ft</u>	<u>Add 45 ft</u>	<u>Add 75ft</u>
<u>Category III (all)</u>	<u>60 ft</u>	<u>Add 30 ft</u>	<u>Add 60 ft</u>	<u>NA</u>

<u>Wetland Category</u>	<u>Standard Buffer Width</u>	<u>Additional buffer width if wetland scores 21-25 habitat points</u>	<u>Additional buffer width if wetland scores 26-29 habitat points</u>	<u>Additional buffer width if wetland scores 30-36 habitat points</u>
Category IV (all)	40 ft	NA	NA	NA

Table 09.040-2. Required measures to minimize impacts to wetlands

(Measures are required, where applicable to a specific proposal)

<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
<u>Lights</u>	<u>Direct lights away from wetland</u>
<u>Noise</u>	<ul style="list-style-type: none"> • <u>Locate activity that generates noise away from wetland</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> • <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> • <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> • <u>Establish covenants limiting use of pesticides within 150 ft of wetland</u> • <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> • <u>Prevent channelized flow from lawns that directly enters the buffer</u> • <u>Use Low Intensity Development techniques (per PSAT publication on LID techniques)</u>
<u>Change in water regime</u>	<u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> • <u>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u> • <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	<u>Use best management practices to control dust</u>
<u>Disruption of corridors or connections</u>	<ul style="list-style-type: none"> • <u>Maintain connections to offsite areas that are undisturbed</u> • <u>Restore corridors or connections to offsite habitats by replanting</u>

5. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

- a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.
- b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.

- c. The total area of the buffer after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than either $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
 - 6. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.
 - c. The total buffer area after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than either $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
 - 7. ~~Buffer width may be reduced through an adjustment permit process (YMC 15.27.317).~~ However, ~~the~~ administrative official may not approve averaging reductions to the standard buffer widths for wetlands that score medium (twenty-six through twenty-eight-nine points) or high (~~twenty-ninethirty~~ through thirty-six points) for wetland habitat function, except where it can be shown that a particular wildlife species' needs within the buffer can be met with a smaller buffer.
 - 8. All other proposals to reduce a wetland buffer may only be approved through the Shoreline Variance process.
- E. Compensatory Mitigation Requirements. Projects that propose compensation for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for a no net loss of wetland functions and values, and must be consistent with the mitigation plan requirements of YMC 17.09.010.P.13. The following documents were developed to assist applicants in meeting the above requirements.
 - 1. Compensatory mitigation plans must be consistent with *Guidance on Wetland Mitigation in Washington State Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals* or as revised (Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology publication number 04-06-013B).
 - 2. Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent with *Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands – Appendix 8-D- § 8-D3* or as revised (Washington State Department of Ecology. Publication # 05-06-008).
- F. Wetland Mitigation Banks
 - 1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- a. The bank is certified under RCW Ch. 90.84 or WAC Ch. 173-700,
 - b. The Administrative Official determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts, and
 - c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.
2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
 3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

17.09.050 Geologically Hazardous Areas

A. Purpose and Intent

1. Geologically hazardous areas include those areas susceptible to erosion, sliding, earthquake, or other geological events. These areas pose a threat to the health and safety of the City of Yakima's citizens when incompatible development is sited in significantly hazardous areas. When mitigation is not feasible, development within geologically hazardous areas should be avoided.
2. The purpose of this section is to:
 - a. Minimize risks to public health and safety and reduce the risk of property damage by regulating development within geologically hazardous areas;
 - b. Maintain natural geological processes while protecting new and existing development; and,
 - c. Establish review procedures for development proposals in geologically hazardous areas.
3. This section does not imply that land outside mapped geologically hazardous areas or uses permitted within such areas will be without risk. This section shall not create liability on the part of the City of Yakima, any officer, or employee thereof for any damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

B. Mapping and Designation

1. Geologically hazardous areas are areas that are susceptible to one or more of the following, based on WAC 365-190-~~080(4)(b)~~ (h)120:
 - a. Erosion hazards;
 - b. Landslide hazards, which include:
 - i. over steepened slopes,
 - ii. alluvial fan/flash flooding,
 - iii. avalanche, and
 - iv. channel migration zones and stream undercutting.
 - c. Seismic hazards (referred to below as earthquake hazards); and,

- d. Volcanic hazards.
2. The approximate location and extent of erosion hazard areas are shown on the City of Yakima's critical area map titled "Erosion Hazard Areas of the City of Yakima." Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. 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."
 3. The approximate location and extent of Geologically Hazardous Areas are shown on the City's critical area map titled "Geologically Hazardous Areas of the City of Yakima." The following geologically hazardous areas have been mapped and classified using the criteria found in WAC 365-190-~~080120(4)(b) (h)~~:
 - a. Landslide Hazard Areas (LS). These include places where landslides, debris flows, or slumps have occurred.
 - i. High Risk (LS3) is defined as areas that are presumed to have had a landslide, debris flow, or slump within 10,000 years or less.
 - ii. Intermediate Risk (LS2) is defined as areas where landslides, debris flows, or slumps are older than 10,000 years, but are still capable of movement.
 - iii. Low Risk areas are defined as: Areas unlikely to fail. These areas are unlabeled and combined with other Low Risk categories.
 - b. Over Steepened Slope Hazard Areas (OS). These include areas with slopes steep enough to create a potential problem.
 - i. High Risk areas (OS3) are defined as having a high potential to fail, include slopes greater than 40%, and consist of areas of rock fall, creep, and places underlain with unstable materials.
 - ii. Intermediate Risk areas (OS2) are defined as areas less likely to fail but are still potentially hazardous. This category includes slopes between 15% and 40%.
 - iii. Low Risk areas are defined as areas unlikely to fail. These areas are unlabeled and combined with other Low Risk categories.
 - c. Alluvial Fan/Flash Flooding Hazard Areas (AF). These areas include locations where flash floods can occur and are often associated with inundation by debris from flooding. These areas may include:
 - i. Alluvial fans,
 - ii. Canyons,
 - iii. Gullies, and
 - iv. Small streams where catastrophic flooding can occur.
 - ~~d. Avalanche Risk Hazard Areas (AR). Areas of avalanche hazards are limited to areas near Cascade Crest, which are currently located outside the City of Yakima's UGA.~~
 - d. Stream Undercutting Hazard Areas (SU). These areas are confined to banks near main streams and rivers where undercutting of soft materials may result.
 - i. High Risk areas (SU3) include steep banks of soft material adjacent to present stream courses.

- ii. Intermediate Risk areas (SU2) are banks along the edge of a flood plain but away from the present river course.
 - iii. Low Risk areas (SU1) are unlabeled and combined with other Low Risk areas on the maps.
 - e. Earthquake Activity Hazard Areas (EA). Recorded earthquake activity in the City of Yakima is mostly marked by low magnitude events and thus low seismic risk. The City of Yakima's Low Risk areas are unlabeled and combined with other low risk hazards.
 - f. Suspected Geologic Hazard Areas (SUS). These are areas for which detailed geologic mapping is deficient but preliminary data indicate a potential hazard may exist. No risk assessment (1-2-3) is given for these areas. Most are probably OS or LS hazards.
 - g. Risk Unknown Hazard Areas (UNK). This category is limited to areas where geologic mapping is lacking or is insufficient to make a determination. All of these areas are associated with other classified geologic hazards.
4. Volcanic Hazard Areas are not mapped, but are defined as areas subject to pyroclastic (formed by volcanic explosion) flows, lava flows, and inundation by debris flows, mudflows or related flooding resulting from volcanic activity. Volcanic Hazard Areas in the City of Yakima are limited to pyroclastic (ash) deposits. No specific protection requirements are identified for volcanic hazard areas.
- C. Geologically Hazardous Areas Protection Approach. The geologically hazardous areas protection approach can be met by following the guidelines below and by implementing the appropriate sections of the Building Code as adopted in YMC Title 11.
1. General. New development and creation of new lots that would cause foreseeable risk from geological conditions during the life of the development or would require structural shoreline stabilization over the life of the development (except as allowed under YMC 17.07.150) is prohibited.
 2. Erosion Hazard Areas. Protection measures for erosion hazard areas will be accomplished by implementing the regulatory standards for erosion and drainage control required under YMC Title 11 Building Code. YMC Title 11 requirements can be met by the application of the Best Management Practices (BMPs) in the Stormwater Management Manual for Eastern Washington (WDOE Publication number 04-10-076); equivalent manual adopted by the City of Yakima; or any other approved manual deemed appropriate by the Building Official.
 3. Landslide Hazard Areas. Protection measures for landslide hazard areas will be accomplished through the review process of YMC 17.09.050.D by implementing the development standards of YMC 17.09.050.E.
 4. Alluvial Fan/Flash Flooding Hazard Areas. Protection measures for alluvial fan/flash flooding hazard areas will be accomplished through the review process of YMC 17.09.050.D.
 5. Stream Undercutting Hazard Areas. Protection measures for stream undercutting hazard areas will be accomplished by Critical Areas review for flood hazards, streams, and Shoreline jurisdiction.
 - ~~6. Avalanche Hazard Areas. This condition is outside the City of Yakima's UGA and, therefore, does not apply.~~

6. Oversteepened Slope Hazard Areas. Protection measures for oversteepened slope hazard areas will be accomplished through the review process of YMC 17.09.050.D, by implementing the development standards of YMC 17.09.050.E.
 7. Earthquake/Seismic Hazard Area Protection Standards. Protection measures for earthquake/seismic hazard areas will be accomplished by implementing the appropriate sections of the Building Code as adopted in YMC Title 11.
 8. Suspected Geologic Hazard Areas and Risk Unknown Hazard Areas. Protection measures for suspected geologic hazard areas and risk unknown hazard areas will be accomplished through the review process of YMC 17.09.050.D and by implementing the development standards of YMC 17.09.050.E.
- D. Development Review Procedure for Geologically Hazardous Areas
1. The Administrative Official shall make a Determination of Hazard to confirm whether the development or its associated facilities (building site, access roads, limits of grading/ excavation/ filling, retaining walls, septic drainfields, landscaping, etc.) are located:
 - a. Within a mapped geologically hazardous area;
 - b. Adjacent to or abutting a mapped geologically hazardous area and may result in or contribute to an increase in hazard, or pose a risk to life and property on or off the site;
 - c. Within a distance from the base of an adjacent landslide hazard area equal to the vertical relief of said hazard area; or,
 - d. Within the potential run-out path of a mapped avalanche hazard.
 2. Developments that receive an affirmative Determination of Hazard by the Administrative Official under subsection 1 above, must conduct a Geologic Hazard Report as provided in YMC 17.09.010.Q, which may be part of a Geotechnical Report required below.
 - a. If the Geologic Hazard Report determines that no hazard exists or that the project area lies outside the hazard, then no Geologic Hazard review is needed.
 - b. The Administrative Official is authorized to waive further Geologic Hazard review for oversteepened slopes on the basis that the hazards identified by the Geologic Hazard Report will be adequately mitigated through the issuance of a grading or construction permit.
 3. Developments that receive an affirmative Determination of Hazard, but do not meet the provisions of subsection 2a or 2b above, must:
 - a. Obtain a Critical Areas Development Authorization under YMC 17.09.010;
 - b. Submit a Geotechnical Report that is suitable for obtaining grading and construction permits that will be required for development;
 - i. The geo-technical report shall incorporate a submitted assessment which includes the design of all facilities;
 - ii. A description and analysis of the risk associated with the measures proposed to mitigate the hazards; and,
 - iii. Ensure the public safety, and protect property and other critical areas; and,

c. Be consistent with YMC 17.09.050.E.

E. General Protection Requirements

1. Grading, construction, and development and their associated facilities shall not be located in a geologically hazardous area, or any associated setback for the project recommended by the Geotechnical Report, unless the applicant demonstrates that the development is structurally safe from the potential hazard, and that the development will not increase the hazard risk onsite or off-site.
2. Development shall be directed toward portions of parcels, or parcels under contiguous ownership, that are at the least risk of hazard in preference to lands with higher risk, unless determined to be infeasible in the Geotechnical Report.
3. The Geotechnical Report shall incorporate methods to ensure that education about the hazard and any recommended buildable area for future landowners is provided.
4. The applicable requirements of grading and construction permits for developments in hazardous areas must be included in the development proposal and Geotechnical Report.

17.09.060 Critical Aquifer Recharge Areas

A. Purpose and Intent

1. The Growth Management Act (RCW Ch. 36.70A) requires local jurisdictions to protect areas with a critical recharging effect on aquifers used for potable water or areas where drinking aquifers are vulnerable to contamination. These areas are referred to as Critical Aquifer Recharge Areas (CARA) in this section.
2. Potable water is an essential life sustaining element and much of the City of Yakima's drinking water comes from groundwater supplies. Once groundwater is contaminated it can be difficult and costly to clean. In some cases, the quality of groundwater in an aquifer is inextricably linked to its recharge area.
3. The intent of this section is to:
 - a. Preserve, protect, and conserve the City of Yakima's CARA from contamination; and,
 - b. Establish a protection approach that emphasizes the use of existing laws and regulations while minimizing 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 in accordance with State and Federal regulations and label specifications);
 - b. Enforce or prevent illegal activities;
 - c. Regulate land uses that use or store small volumes of hazardous substances (including in-field agricultural chemical storage facilities, which do not require permits, or are already covered under existing state, federal, or county review processes and have detailed permit review);
 - d. Establish additional review for septic systems, which are covered under existing City of Yakima review processes;

- e. Establish additional review for stormwater control, which is covered under existing review processes and has detailed permit review; or,
- f. Require review for uses that do not need building permits and/or zoning review.

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

B. Mapping

1. Mapping Methodology. The CARA is depicted in the map titled "Critical Aquifer Recharge Areas of the City of Yakima" located within the City of Yakima's 2006 Urban Area Comprehensive Plan 2025. The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology "Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances" (Publication #97-30). The approximate location and extent of critical aquifer recharge areas are depicted on the above mentioned map, and are to be used solely as a guide for the City. The CARA map estimates areas of moderate, high, and extreme susceptibility of contamination, as well as, wellhead protection areas. In characterizing the hydrogeologic susceptibility of these recharge areas with regard to contamination, the following physical characteristics were utilized:
 - a. Depth to ground water;
 - b. Soil (texture, permeability, and contaminant attenuation properties);
 - c. Geologic material permeability; and,
 - d. Recharge (amount of water applied to the land surface, including precipitation and irrigation).
2. Wellhead Protection Areas. The CARA map includes those Wellhead Protection Areas for which the City of Yakima has maps. Wellhead Protection Areas are required for all Class A public water systems in the State of Washington. The determination of a wellhead protection area is based upon the time of travel of a water particle from its source to the well. Water purveyors collect site specific information to determine the susceptibility of the water source to surface sources of contamination. Water sources are ranked by the Washington State Department of Health with a high, moderate, or low susceptibility to surface contamination. Wellhead protection areas are defined by the boundaries of the ten (10) year time of ground water travel, in accordance with WAC 246-290-135. For purposes of this Chapter, all wellhead protection areas shall be considered highly susceptible.

C. Protection Approach

1. Maps shall be used only as an informational resource to communicate with applicants regarding potential problems in meeting the applicable laws on a particular site. The maps indicate that areas of high susceptibility tend to be located in valley bottoms and follow along floodplain and stream corridors. Extreme susceptibility locations are located largely within floodplains and along streams and wetlands.
2. Land uses are subject to many existing, federal, state, local, or tribal laws regarding the handling of substances that may contaminate CARAs. Disclosure, educational information, and coordination of existing laws during existing review processes can accomplish the

requirement to protect the CARA. Consequently, the City of Yakima's protection of the CARA shall be accomplished through normal project permit review under various Yakima Municipal Code sections, especially the stream protection standards in YMC Ch. 17.09.030 (Part Five Fish and Wildlife Habitat and the Stream Corridor System); YMC Title 11, which provides detailed construction, use, and fire/life-safety standards for the storage and handling of dangerous and hazardous substances to a greater extent than most existing state; and federal laws.

3. The Administrative Official shall develop and maintain a list of the relevant laws noted above. This list shall be informational and it is intended to be used in coordination with development permit review. This list shall be periodically reviewed and updated so as to provide the most comprehensive list possible to inform project applicants of the requirements of other agencies.
4. The Administrative Official shall also develop and maintain a table of land uses with the potential of being subject to the relevant laws noted above. The table shall be generated and maintained using the intent stated in YMC 17.09.060.A.4.
5. The Building Official and Water/Irrigation Manager shall cooperatively develop questionnaires, to be filled out by new development permit applicants, which comprehensively establish the potential use, storage, and handling methods within the project for substances that have the potential to contaminate groundwater. The questionnaires are intended to ensure full application of existing building and construction codes related to such substances in order to forestall new regulations.
6. The Building Official and Water/Irrigation Manager shall develop technical assistance and information materials to assist landowners and developers with understanding and meeting relevant existing federal, state, and local laws relating to CARAs.

City of Yakima SMP Update

Planning Commission Meeting – Discussion Guide

May 16, 2013



Meeting Goal

Review & Obtain Planning Commission Direction on:

- Section 17.05.020 Environmental Protection
- Section 17.05.030 Shoreline Vegetation Conservation
- Chapter 17.09 Critical Areas
 - .010 – general provisions
 - .030 – fish and wildlife habitat and the stream corridor system
 - .040 - wetlands
- Section 17.05.060 Flood Hazard Reduction
- Section 17.07.030 Boating and Private Moorage Facilities
- Other questions on remaining sections of Chapter 17.09 or Section 17.07.150 (Shoreline Stabilization)?

SMA Principles

- Key principles of SMA
 - encourage appropriate development
 - such as docks, marinas, recreation facilities, and industries that are dependent on, related to, or enable enjoyment of shorelines
 - provide environmental protection and restoration for shorelines
 - promote public access



Environmental Protection

- Provides basic guiding principles for all uses and modifications:
 - Requirement that development or activity must achieve “no net loss of ecological functions”
 - Requirement to use mitigation sequencing
 - Requirement to develop and implement mitigation plan for unavoidable adverse impacts

Shoreline Vegetation Conservation

- Vegetation conservation standards DO NOT APPLY RETROACTIVELY to existing uses and developments.
- New development must avoid and minimize vegetation clearing except as needed to accommodate an approved development
- Adverse impacts to vegetation must be mitigated; a list of examples is included
- Provisions to address vegetation modifications for safety and views
- Removal of invasive or non-native species is encouraged
- Allowances for aquatic weed control

Critical Areas – General Provisions

- Removed language that is redundant with other sections of the SMP (e.g., mitigation sequencing)
- Removed language that is inconsistent with the Shoreline Management Act or SMP Guidelines (e.g., permit processes and most exemptions)

Critical Areas – Fish and Wildlife Habitat/Streams

- Added provisions applying to water-enjoyment uses
- Developed customized buffers by environment designation and waterbody type (stream or lake) – replaced the one-size-fits all County buffer of 100 feet.
- Retained County's 100-foot buffer for Floodway/CMZ designation per Ecology
- Altered the buffer reduction option to allow averaging administratively with maximum reduction of 25% in any location; further reductions require Shoreline Variance
- Moved wetland-specific provisions into Wetlands section

Critical Areas – Wetlands

- Most changes are derived from Ecology’s 2012 “Wetlands & CAO Updates: Guidance for Small Cities (Eastern Washington Version)”
- Delineation method changed (no practical consequences)
- Wetland buffers updated (generally, wetland buffers are smaller than existing required buffers)
- Altered the buffer reduction option to allow averaging administratively with maximum reduction of 25% in any location; further reductions require Shoreline Variance

Flood Hazard Reduction

- Most of this new section is verbatim excerpt from the SMP Guidelines
- New provision added to provide greater flexibility in planning and implementing levee setback projects (regulation J)

Boating and Private Moorage Facilities

- Minor revisions for consistency with City conditions and allowances
- Added specific residential dock provisions for lakes based on existing conditions (Google Earth observations) and covenants
- Added some standards for boat launch design

Remaining Sections

- Questions, clarifications, modifications?
- Section 17.09.020 Flood hazard areas
- Section 17.09.050 Geologically hazardous areas
- Section 17.09.060 Critical aquifer recharge areas
- Section 17.07.150 Shoreline Stabilization

YAKIMA SHORELINE MASTER PROGRAM

This document provides draft regulations for the following sections of City of Yakima Shoreline Master Program (SMP) Update:

- Section 17.05.010 Archaeological and Historic Resources (all new)
- Section 17.05.040 Water Quality, Stormwater, and Nonpoint Pollution (all new)
- Section 17.07.010 Agriculture
- Section 17.07.020 Aquaculture
- Section 17.07.060 Fill
- Section 17.07.090 Mining
- Section 17.07.120 Shoreline Habitat and Natural Systems Enhancement Projects (all new)
- Section 17.07.140 Signs

Typically, the base language is from the Yakima County Regional SMP, and then amended with strikeout/underline to be more consistent with City conditions or SMP Guidelines. In some cases, sections are “all new” and noted as such. Additional revisions to these draft regulations have been made per Planning Commission discussions held on April 17; those changes are highlighted in yellow.

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The draft sections should be read in conjunction with the following documents distributed to the Planning Commission at prior meetings:

- Preliminary Shoreline Environment Designations & Use and Modification Matrix Framework (updated version distributed at 4/10 meeting)
- Excerpts From Ecology’s Shoreline Master Program Submittal Checklist (distributed at 3/27 meeting)
- SMP Update Guidance – Consistency (distributed at 3/27 meeting)
- Comment letter (dated 1/31/13) from the Yakama Nation.

PORTION OF CHAPTER 17.05 – GENERAL REGULATIONS

17.05.010 Archaeological and Historic Resources (All New)

Consultant Note: Designed to meet WAC 173-26-221(1) and Yakama Nation comment letter to City in February 2013.

- A. The City shall require that permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist. Auger tests may be required before construction and representatives of the Washington State Department of Archaeology and Yakama Indian Nation may be invited to observe any tests and construction work. If auger or historical data indicate probable presence of cultural resources which may be disturbed by excavation, the City shall meet the shoreline permit applicant and may impose conditions on any shoreline permit to assure that such resources are protected, preserved or collected.
- B. Developers and property owners shall immediately stop work and notify the City, the Washington State Department of Archaeology and Historic Preservation, and the Yakama Indian Nation if archaeological resources are uncovered during excavation. Following such notification, the City may follow the provisions of Subsection C.

- C. Where a professional archaeologist or historian, recognized by the State of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, the City may require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws.

17.05.040 Water Quality, Stormwater, and Nonpoint Pollution (All New)

Consultant Note: The County SMP has some jurisdiction-wide policies, but most policies are limited to critical areas and buffers and the regulations appear to be applied only to critical areas and buffers. The Consultants propose a more jurisdiction-wide set of regulations based on direction in the SMP Guidelines and relying on locally adopted manuals.

A. Do not degrade waters ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities or recreational opportunities do not occur and so that there is no net loss of ecological functions.

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A.B. Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities or recreational opportunities do not occur. A significant impact to aesthetics or recreation would occur if a stormwater facility and appurtenant structures such as fences or other features have the potential to block or impair a view of shoreline waters from public land or from a substantial number of residences per RCW 90.58.320, or if water quality were visibly degraded such that the color and character were unattractive and discouraged normal uses such as swimming, fishing, boating, or viewing.

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B.C. Requirements for new development.

1. New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse affects on shoreline ecological functions through the use of best management practices (BMPs) and/or through compliance with the latest edition of the Stormwater Management Manual for Eastern Washington or approved local equivalent if applicable to the project. If certain thresholds are not met by a development that trigger compliance with the Stormwater Management Manual or approved local equivalent, best management practices (BMPs) must still be employed to avoid and minimize potential adverse effects.

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2. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

C.D. Sewage management. To avoid water quality degradation, sewer service is subject to the requirements outlined below.

1. Any existing septic system or other on-site system that fails or malfunctions will be required to connect to an existing municipal sewer service system if feasible, or make system corrections approved by Yakima Public Health.
2. Any new development, business, single-family or multi-family unit will be required to connect to an existing municipal sewer service system if feasible, or install an on-site septic system approved by Yakima Public Health.

~~D.F.~~ Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals.

~~E.F.~~ Low Impact Development (LID). Use of the most current version of the Yakima Region Low Impact Development (LID) Stormwater Design Manual throughout the various stages of development, including site assessment, planning and design, site preparation, construction, and ongoing management, is encouraged.

PORTIONS OF CHAPTER 17.07 – USE-SPECIFIC AND MODIFICATION REGULATIONS

17.07.010 Agriculture

Consultant Note: This section amends the Regional SMP language which is more geared to rural Yakima County. Text is simplified and matched to SMP Guidelines as well as City zoning, which allows most agricultural activities except feedlots.

- A. For Shoreline purposes, WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities. ~~To summarize, existing agricultural activities, including maintenance, repair and replacement of existing facilities, may continue as they historically have and may include changes in crops. New agricultural activities on land not currently in agricultural use are subject to shoreline review. New facilities (roads, buildings, etc.) are subject to shoreline review, or exemption when applicable. The following provisions apply to any development, construction, or use of land for agricultural purposes.~~
- B. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP.
- C. SMP provisions shall apply in the following cases:
 1. new agricultural activities on land not meeting the definition of agricultural land;
 2. expansion of agricultural activities on non-agricultural lands or conversion of non-agricultural lands to agricultural activities;
 3. conversion of agricultural lands to other uses;
 4. other development on agricultural land that does not meet the definition of agricultural activities; and
 5. agricultural development and uses not specifically exempted by the Act.

~~B.D. Confinement Concentrated animal feeding operations shall meet the following standards are prohibited in shoreline jurisdiction.¹~~

~~1. Applicants shall submit a proposed site plan that indicates:~~

- ~~a. Maximum number and type of livestock to be kept on the site;~~
- ~~b. Existing and proposed contour of the land and topographic features;~~
- ~~c. Groundwater profiles, streams and drainage ways;~~
- ~~d. Soil types;~~
- ~~e. Existing and proposed building locations;~~
- ~~f. Waste disposal facilities including: Site runoff storage ponds, location of manure stockpiles, holding tanks and ponds, ultimate manure disposal sites;~~
- ~~g. Other use areas such as feed storage, animal movement routes and animal pens.~~

~~2. A site plan judged by the Administrative Official to be insufficient for the protection of the shoreline environment shall cause denial of the application.~~

~~E. New agricultural activities and facilities shall utilize best management practices established by the USDA Natural Resources Conservation Service or other similar agency.~~

~~G.F. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.~~

~~D. Rangeland livestock grazing may qualify for the exemption from Critical Areas development standards listed in 16D.03.13(2)(b).~~

17.07.020 Aquaculture

The following provisions apply to any development, construction, or use of land or water for aquacultural purposes within Shoreline jurisdiction.

A. All structures located within water bodies shall not preclude navigability of those waters at any time, and shall be clearly marked so as to provide no hazard to navigation on those waters.

B. Aquaculture facilities shall be designed and located to avoid significant conflict with water-dependent uses, the spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic qualities.

~~B.C. Aquaculture that supports recovery of endangered or threatened fish species or supports public or community recreation is encouraged provided it is conducted within the bounds of subsections A and B.~~

¹The Yakima Municipal Code defines such operations as: "Concentrated animal feeding operation" means a structure or pens for the concentrated feeding or holding of animals or poultry, including, but not limited to, horses, cattle, sheep or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms, but does not include animal husbandry. (YMC 15.02.020)

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17.07.060 Fill

Consultant Note: The County SMP language was supplemented to provide more clarity about fills in sensitive areas and in non-sensitive upland areas. Text is better matched to SMP Guidelines. Much of the existing language from the County SMP is identical to material found in the City's critical areas regulations and has been retained. The redundant language will not be included in the future shoreline critical areas section (to be discussed at the 5/16 meeting).

~~The following provisions shall apply to filling activities within shorelines:~~

- A. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions shall be mitigated.
- B. Permissible fill in sensitive areas, including fill within wetlands, floodways, channel migration zones, or waterward of the OHWM, shall only be permitted in limited instances for the following purposes and when other required state or federal permits have been obtained, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this SMP, such as:
 - 1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
 - 2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see Section 17.07.060 of this SMP);
 - 3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
 - 4. Ecological restoration or enhancement when consistent with an approved restoration plan;
 - 5. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and Section 17.05.060, Flood Hazard Reduction.
 - 6. Protection of cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes and comply with applicable provisions of Section 17.05.010 of this SMP.

All fills waterward of the OHWM not associated with ecological restoration, flood control or approved shoreline stabilization shall require a Shoreline Conditional Use Permit.

- ~~B. Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses, or an approved reclamation plan under Section 16D.06.23 (Reclamation) or approved compensatory mitigation plan under Section 16D.03.17(13).~~
- C. Permissible upland fill. All other upland fill is permitted, provided it:
 - 1. Is conducted outside applicable buffers, unless specifically allowed in buffers;
 - 2. Is part of an approved shoreline use or modification, or is necessary to provide protection to cultural or historic resources;
 - 3. Is the minimum necessary to implement the approved use or modification;

4. Is planned to fit the topography so that minimum alterations of natural conditions will be necessary;
 5. Does not adversely affect hydrologic conditions or increase the risk of slope failure; and
 6. Is consistent with applicable provisions of Chapter 17.09, particularly regulations governing floodways and 100-year floodplains. Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter.
- ~~C.D. Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream-shoreline corridor area. Other alternatives should shall be preferred over fill to elevate new homes-structures in the floodplain, such as use of pile or pier supports, posts, columns, other zero-rise methods, or increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods.~~
- ~~D. Fill in floodplains shall meet the requirements of chapter 16D.05 (Flood Hazards).~~
- ~~E. Pile or pier supports shall be preferred over fill for water dependent uses and facilities.~~
- ~~F.E. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material obtained from a State-certified source, with a minimum potential to degrade water quality and meeting the specifications included in project plans approved by local, state and federal review agencies.~~
- ~~G.F. Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.~~
- ~~H.G. Erosion control. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the Stormwater Management Manual for Eastern Washington, or the most recent adopted stormwater manual, shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to commencement of activity. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, hydroseed, or similar methods and revegetated, as applicable. Fill shall be stabilized with native vegetation where appropriate to prevent erosion, migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless technical consultation with other regulating agencies indicates alternative means are required.~~
- ~~I.H. Projects that propose fill shall make every effort to acquire fill onsite (also known as compensatory storage) where appropriate.~~
- ~~I.I. Fill should not obstruct, cut off, or isolate stream corridor features.~~
- ~~K. Additional Shoreline Standards for Fill – The requirements below shall apply to all filling activities within Shoreline jurisdiction.~~
- ~~1. Fill projects shall be evaluated for effects on total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat.~~
 - ~~2. Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the Administrative Official to be insufficient for the protection or restoration of the Shoreline environment shall cause denial of a Substantial Development Permit.~~

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17.07.090 Mining

Consultant Note: The County SMP language was modified to indicate that post-mineral extraction processing activities are regulated as an industrial use. Much of the existing language from the County SMP is identical to material found in the City's critical areas regulations and has been retained, or tweaked to better match the City's critical areas regulations. The redundant language will not be included in the future shoreline critical areas section (to be discussed at the 5/16 meeting).

The following provisions shall apply to ~~the commercial mining of gravels within shorelines jurisdiction.~~ Processing and other activities that occur off-site or after active mineral extraction has concluded on-site are also regulated as an industrial use (see Section 17.07.070):

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- A. Prior to the authorization of a commercial ~~gravel~~ mining operation, the project proponent shall provide maps to scale which illustrate the following:
 1. The extent to which ~~gravel~~ excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation;
 2. The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation;
 3. The description, location, and extent of any proposed subsequent use that would be different than existing uses.
- B. ~~The~~ operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value, ~~except wetlands which shall be mitigated according to guidance in the Washington State Department of Ecology's Wetland Mitigation in Washington State, Parts 1 and 2 (March 2006 or as updated).~~
- ~~C. Any surface mining allowed within the floodway shall meet the standards of 16D.05.36.010(1).~~
- ~~D.C.~~ Except where authorized by ~~the City of Yakima County~~ in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:
 1. The excavation zone ~~for the removal of gravels~~ shall be located a minimum of one hundred feet upland from the ordinary high water mark (OHWM) of the stream channel.
 2. Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM.
 3. ~~Gravel~~ ~~w~~Washing, ~~rock~~ crushing, screening, or stockpiling of ~~gravels-mined materials~~ shall not occur within one hundred feet of the OHWM.
- ~~E.D.~~ Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).
- ~~F.F.~~ Additional Shoreline Standards for Industrial Mining ~~of Gravels~~ ~~The requirements below shall apply to all mining activities within Shoreline jurisdiction.~~
 1. Applicants shall submit a mining and reclamation plan to the ~~Shoreline~~ Administrator describing the proposed site, quantity of material to be removed, method of removal, and measures that will be taken to protect lakes and streams from siltation and sedimentation. A surface mining plan or a reclamation plan judged by the ~~Shoreline Administrative or Official~~ to be insufficient for

protection or restoration of the shoreline environment shall cause denial of a [Shoreline Substantial Development Permit](#).

2. Mining ~~processing activities and~~ stockpiles shall be sited in such a manner so as to avoid damage or loss resulting from flooding.
- ~~3. Mining processing activities shall utilize existing and/or new vegetation where necessary to minimize visual and noise impacts.~~
4. ~~3.~~ New mining and associated activities shall assure that proposed subsequent use of the mined property is consistent with the provisions of the environment designation and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting.

17.07.120 Shoreline Habitat and Natural Systems Enhancement Projects (All New)

~~A.~~ Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This section does not apply to mitigation.

~~A-B.~~ Approved plan. Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.

~~B-C.~~ Protect adjacent resources. All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

~~C-D.~~ Maintenance and monitoring. Long-term maintenance and monitoring (minimum of three years, but preferably longer) shall be arranged by the project applicant and included in restoration or enhancement proposals. [legal information to be provided by City of Yakima]

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~~D-E.~~ Adverse affects. Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no significant adverse changes to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.

~~E-F.~~ Use of best information and BMPs. Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.

~~F-G.~~ Public use of waters and lands. Shoreline restoration and enhancement shall not interfere with lands or waters dedicated specifically for public use, as determined by the Shoreline Administrator, without appropriate mitigation. For projects on state-owned aquatic lands, project proponents must coordinate with the Washington Department of Natural Resources to ensure the project will be appropriately located prior to the solicitation of permits from regulatory agencies.

~~G.~~ Permitted. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.

- H. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

17.07.140 Signs

- A. Outdoor advertising signs must conform to size, spacing and lighting provisions of the Washington State Scenic Vistas Act of 1971, where applicable.

B. Signs shall meet applicable City municipal code requirements regarding size, location, lighting, and other relevant performance standards.

~~B.C. Proposals for signage shall submit plans for signage at the time of application for shoreline permits, including shoreline exemptions.~~

D. The Shoreline Administrator may condition signage regarding size, illumination, and placement, to ensure that signage is compatible with adjacent shoreline environments and does not:
1) significantly² obstruct visual access to the water from public lands or a substantial number of residences per RCW 90.58.320 and shorelines hearings board case law; or 2) impair scenic vistas to the Yakima Greenway or Naches River or associated lakes; or 3) impair driver vision such as due to lines of sight, type of frequency of lighting, or other feature that has the potential to result in safety concerns.

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² There is no definition of significant in the Shoreline Management Act, but there is in the State Environmental Policy Act (SEPA). We propose to use the SEPA definition. "Significant" means a reasonable likelihood of more than a moderate adverse impact on environmental quality. Significance involves context and intensity and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact. The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

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