

Title 15

YAKIMA URBAN AREA ZONING ORDINANCE*

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* Prior legislation: Ords. 93-10, 94-7, 95-5, 96-19, 97-9, 98-9, 99-13, 2001-76 and 2005-84.

APPENDIX A

Yakima Urban Growth Area Legal Description

Beginning at the southwest corner of Government Lot 5, Section 17, Township 12 North, Range 19 East W.M.; thence north along the west line of said Section 17 to the southeast corner of Section 7, Township 12 North, Range 19 East W.M., thence west along the south line of said Section 7 to the southwest corner of the southeast quarter of said Section 7; thence north along the west line of the east half of said Section 7 to Ahtanum Creek, thence following Ahtanum Creek in a generally westerly direction to the west line of the southwest quarter of the southeast quarter of Section 2, Township 12 North, Range 18 E.M.W.; thence north along said west line to the northwest corner of the southwest quarter of the southeast quarter of said Section 2; thence west along the east-west centerline of the south half of said Section 2 to the west line of said Section 2; thence continuing west along the east-west centerline of the south half of Section 3, Township 12 North, Range 18 East W.M. to South 34th Avenue; thence north along South 34th Avenue to Ahtanum Road—thence west along Ahtanum Road to 38th Avenue; thence north along 38th Avenue to the north line of Section 3, Township 12 North, Range East W.M.; thence west along said north line to the northeast corner of Section 4, Township 12 North, Range 18 East W.M.; thence continuing west along the north line of said Section 4 to the southeast corner of Section 33, Township 13 North, Range 18 East W.M.; thence continuing west along the south line of said Section 33 to 64th Avenue; thence north along 64th Avenue to the east-west centerline of Sections 32 and 33, Township 13 North, Range 18 East W.M.; thence west along said east-west centerline to the north-south centerline of the west half of said Section 32; thence north along said north-south centerline to Zier Road; thence west along Zier Road to South 80th Avenue; thence north along South 80th Avenue to Wide Hollow Road; thence west along Wide Hollow Road to the north-south centerline of the east half of Section 30, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline to the east-west centerline of said Section 30; thence west along said east-west centerline to the north-south centerline of the west half of said Section 30; thence north along said north-south centerline to the Yakima Valley Canal; thence following the Yakima Canal in a generally westerly direction to its intersection with Tieton Drive; thence west on Tieton Drive to 96th Avenue; thence north on 96th Avenue to the northwest corner of the southwest quarter of Section 19, Township 13 North, Range 18 East W.M.; thence north along the west section line of said Section 19 to a point 250 feet south of the northwest corner of the southwest quarter of the northwest quarter of said Section 19; thence north 89°33' East to the Tieton Canal; thence following the Tieton Canal in a generally northeasterly direction to the north-south centerline of the east half of said Section 19; thence north along said north-south centerline to the north-south centerline of the east half of Section 18, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline of said Section 18 to the east-west centerline of the south half of said Section 18; thence east along said east-west centerline to the west line of Section 17, Township 13 North, Range 18 East W.M.; thence north along said west line of the east-west centerline of said Section 17; thence east along said east-west centerline to the east line of said Section 17; thence north along said east line to the south right-of-way line of the Burlington Northern Railroad, Cowiche Branch; thence following said south right-of-way line in a generally northeasterly direction to the north right-of-way line of State Route 12; thence following said north right-of-way line in a generally southeasterly direction to Cowiche Creek; thence following Cowiche Creek in a generally northeasterly direction to its confluence with the Naches River; thence following the south bank of the Naches River and the south bank of the Yakima River in a generally easterly direction to the north-south centerline of the east half of Section 12, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline to RestHaven Road; thence following RestHaven Road in a generally south-easterly direction to the south line of Section 8, Township 13 North, Range 19 East W.M.; thence east along the south line of Sections 8 and 9 to the southwest corner of Lot 3 of that certain short plat recorded in Volume 81, Page 133, Short Plat Records of Yakima County; thence continuing east 260 feet along said south section line; thence north 0°22'34" east 270.51 feet; thence north 38°30'50" east 146.66 feet; thence north 47°30'24" east 63.80 feet; thence north 77°58'20" east 1,026.46 feet; thence north 71°00' east 255.38 feet; thence north 59°00' east to the north line of the southwest quarter of the southwest quarter of Section 10, Township 13 north, Range 19 E.W.M., thence easterly along said north line to the Northeast corner of said subdivision; thence southerly along the east line of the southwest quarter of the southwest quarter of said Section 10 to the southeast corner of said subdivision; thence westerly along the south line of the said Section 10 to the northwest corner of Section 15, Township 13 North, Range 19 E.W.M., thence southerly along the west line of said Section 15 to the southwest corner of the northwest quarter of said Section 15; thence easterly along said east-west centerline to the southeast corner of the northeast quarter of said Section 15; thence easterly along the east-west centerline of Section 14, Township 13 North, Range 19 E.W.M. to the northeast corner of the

northwest quarter of the southwest quarter of said Section 14; thence southerly along the north-south centerline of the west half of said Section 14 to the southeast corner of the southwest quarter of the southwest quarter of said Section 14; thence easterly along the south line of said Section 14 to the northeast corner of Section 23, Township 13 North, Range 19 E.W.M.; thence southerly along the east line of said Section 23 to the southeast corner of said Section 23; thence westerly along the south lines of Sections 23, 22, 21 and 20, Township 13 North, Range 19 E.W.M. to the west bank of the Yakima River; thence following said west bank in a generally southerly direction to a point where it intersects the east right-of-way line of Interstate Highway 82; thence westerly to the point where the west right-of-way line of said interstate highway intersects the south line of Government Lot 2 of Section 17, Township 12 North, Range 19 E.W.M.; thence westerly along the south line of said Government Lot 2 and of Government Lot 5 of said Section 17 to the southwest corner of said Government Lot 5 and the point of beginning.

(Ord. 2947 Appendix A, 1986).

APPENDIX B

Designated Type 2 Stream Corridors

The following stream reaches within Yakima County are designated critical areas under the City of Yakima's Critical Areas Ordinance:

1. Bachelor Creek: From source at Ahtanum Creek (SEC13-TWP12N-RGE16 EWM) downstream to its mouth at Ahtanum Creek (SEC1-TWP12N-RGE18E).
2. Cottonwood Canyon Creek: From the south line of SEC32-TWP13N-RGE17E, downstream to mouth at Wide Hollow Creek (SEC36-TWP13N-RGE17E).
3. Hatton Creek: From its source at Ahtanum Creek (SEC18-TWP12N-RGE17) downstream to its confluence with Ahtanum Creek (SEC18-TWP12N-RGE18E).
4. Wide Hollow Creek: From the east line of the SW1/4 of the NW1/4 (SEC28-TWP13N-RGE17E) downstream to the mouth at the Yakima River.

(Ord. 2008-46 § 1 (part), 2008).

Chapter 15.01

TITLE, PURPOSE AND JURISDICTION

Sections:

- 15.01.010 Title and authority.
- 15.01.020 Jurisdiction.
- 15.01.030 Purpose and intent.
- 15.01.035 Illegal uses prohibited.
- 15.01.040 Applicability.
- 15.01.050 Compliance.
- 15.01.060 Conflict of provisions.
- 15.01.070 Severability.
- 15.01.080 Number and gender.

15.01.010 Title and authority.

Yakima Municipal Code (YMC) Title 15, codified in YMC Chapters 15.01 through 15.31 of this code, shall be known as the Yakima urban area zoning ordinance (UAZO). The Yakima urban zoning ordinance is enacted under authority granted to ~~Yakima County and~~ the city of Yakima by Article XI, Section II, of the Washington State Constitution and RCW 36.70. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.01.020 Jurisdiction.

A. Generally. This title is enacted and administered separately by the city of Yakima ~~and Yakima County~~ for lands and uses ~~within the Yakima urban growth area (UGA). The ordinance adopted and enacted by the city of Yakima applies to all land and uses~~ located within the city limits of the city of Yakima. ~~The ordinance adopted and enacted by the county of Yakima applies to the unincorporated portions of the Yakima urban growth area.~~

B. Yakima Urban Area Boundary. For purposes of this title, the Yakima urban growth area is hereby officially declared to be that area bounded and described:

1. On the official zoning maps adopted in accordance with YMC 15.03.030; and
2. In the “Yakima Urban Growth Area Legal Description” codified at the end of this title as Appendix A and hereby adopted by reference and declared to be a part of this title. In cases of conflict between the official zoning maps and the official legal description, the official legal description shall control.

~~C. Existing Ordinance Superseded. The provisions of this title shall be and are hereby declared to supersede and replace all existing and future provisions of Yakima Municipal Code Title 15 within the unincorporated areas of Yakima County located within the Yakima urban growth area as officially described and adopted in YMC 15.01.020(B). The provisions of Yakima County Code Title 15A shall, however, continue and remain in full force and effect in the unincorporated areas of Yakima County located outside the officially adopted Yakima urban growth area.~~

DC. Terminology. Unless the context clearly implies some other meaning, references to “county,” “city,” or similar terms in this title refer either to Yakima County or the city of Yakima, whichever entity has jurisdiction over the particular land use proposal or other item involved or affected. In no event shall such references be construed to require, directly or indirectly, action by both entities or their respective officials or agencies. References to “legislative body,” “administrative official,” “department of community ~~and economic~~ development director,” “hearing examiner” or other official or agency under this title mean those officials or agencies of the city of Yakima or Yakima County, whichever entity has jurisdiction. (Ord. 2008-46 § 1 (part), 2008: Ord. 2002-01 § 1, 2002; Ord. 2947 § 1 (part), 1986).

15.01.030 Purpose and intent.

The purpose of this title is to implement the Yakima urban area comprehensive plan and promote the general health, safety and welfare of present and future inhabitants of the Yakima urban growth area. The goals and policies of the

urban area comprehensive plan will be used for interpretation and implementation. These goals are accomplished in many ways, including:

1. Achieving public and private land use decisions consistent with the policies and objectives of the Yakima urban area comprehensive plan;
2. Dividing the Yakima urban area into districts according to the use of land and structures and the intensity of such use;
3. Encouraging the location and use of structures and land for commerce, industry and residences in districts where they are compatible with neighboring land uses;
4. Encouraging development in areas where adequate public services including water and sewer, police and fire protection, roads, and schools can be provided; and limiting development in areas where these facilities are not provided;
5. Securing economy in local governmental expenditures;
6. Encouraging innovative site design;
7. Providing for adequate privacy, light, air, and view;
8. Promoting development within the Yakima urban growth area that is cost-effective to build and maintain;
9. Reducing the time required for public review of proposed projects;
10. Protecting existing land uses and property values from adverse impacts of adjoining developments;
11. Reducing traffic danger and congestion on roads and highways;
12. Minimizing public and private losses due to flooding.

This title is designed to be flexible and intentionally increases the potential uses or choices available to individual property owners. This flexibility is balanced by procedures and standards based on the Yakima urban area comprehensive plan designed to guard against and mitigate undue adverse impacts and to protect individual neighborhoods and the community's general welfare. Both concepts are essential to this title and declared necessary for the promotion of the general health, safety and welfare.

Further, this title divides all the land within the unincorporated portion of the Yakima urban area and the city of Yakima into zoning districts. Each zoning district has an intent statement that clearly defines the district's purpose, identifies the general character of the area within the district, and establishes policies to be achieved by development in the district. Distinctions between each district are significant and based on the Yakima urban area comprehensive plan. The intent statements serve as a guide to the administration and interpretation of this title and are declared to be an official statement of legislative finding and purpose. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.01.035 Illegal uses prohibited.

- A. General. No use that is illegal under local, state or federal law shall be allowed in any zone within the city.
- B. Specific Application—Medical Marijuana Dispensaries and Collective Gardens. Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating dispensaries of cannabis and/or collective gardens for the production, distribution and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW and E2SSB 5073, Laws of 2011 of the State of Washington, such uses are not allowed in any zone within the city. For purposes of this section, "dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers, exchanges or gives away cannabis for medicinal or other purposes.

C. Production, Processing and Retailing of Marijuana Prohibited. Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating production, processing, retail sale and retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, and implementing regulations in Chapter 314-55 WAC, as now existing or hereafter amended, such uses are each prohibited and not allowed in any zone within the city. (Ord. 2014-001 § 2, 2014: Ord. 2012-03 § 2, 2012).

15.01.040 Applicability.

A. Except as exempted, no “use” or “development,” or “modification of use or development,” as those terms are defined, may be established, placed, performed, constructed, or implemented, in whole or in part, without a permit. The permit required by this title is called a “development permit.” Yakima Municipal Code Chapters 15.11 and 15.12 contain provisions governing such permits and applications for permits. The following uses and modifications are exempt from review and permit requirements; provided, that they do not conflict with the requirements of a previously issued permit:

1. Normal structural repair and maintenance;
2. Changes to conforming structures which do not involve “structural alteration” as that term is defined by this title;
3. Rehabilitation of dwelling units, when such rehabilitation does not expand the number of units nor physically expand the structure;
4. Accessory structures (YMC 15.04.060) otherwise meeting the specific development standards and other requirements of this title and which do not require a building permit under the provisions of the applicable building code as adopted by the city/county;
- ~~5. Communication towers less than thirty five feet in height and which meet the requirements of YMC 15.04.180;~~
- ~~65.~~ Exempt signs;
- ~~76.~~ Yard sales meeting the requirements of Section 15.04.090;
- ~~87.~~ Alterations to land including grading, leveling, paving and excavation, the fair market value of which does not exceed five hundred dollars or fifty cubic yards;
- ~~98.~~ Sitescreening and landscaping; and
- ~~109.~~ All grading, construction of private or public roads, landscaping, construction of sewer, wastewater facilities, water, electrical, and other utilities pursuant to an approved and valid short or long subdivision regulating such improvements.

B. Uses of Lands Are Regulated by This Title. (See YMC 15.02.020 defining “use,” “accessory use,” “structure,” “site improvement,” and “development.”) Title 15 regulates such uses in the following ways:

1. By specific development standards which must be met (see YMC Chapters 15.05, 15.06, 15.07, 15.08, and 15.09). Some of the development standards are designed to be administratively adjusted to accommodate the purpose and intent of the zoning district involved and allow flexibility of development. (See YMC 15.10.020.)
2. By prior review of more significant uses to allow general policies and standards to be applied; to assure compliance with the purpose and intent of this title; and to allow more flexibility of development and use. (See YMC 15.01.030.) Different types of review procedures (Type (1), (2), or (3)) (see YMC Chapters 15.13, 15.14, and 15.15) are established for different categories or classes of uses (Class (1), (2), or (3)). The type of review is generally determined by the classification of the use involved under the use chart contained in Table 4-1 (see YMC Chapter 15.04). Accessory uses are also subject to the review processes and development standards.

C. **New and Existing Uses Regulated.** Both uses established before and after the adoption of this title are regulated, but are treated differently depending on their status under this title. Permitted uses are established by Table 4-1, which determines which particular uses are allowed, and the degree of compatibility of the land use in a given zoning district. Uses and development are reviewed under Type (1), (2), or (3) processes, and if approved are called “approved uses.”

Previous uses whose principal use would be permitted in the zoning district in which it is located are called “existing uses.” Existing uses are allowed to continue even though they have not been through the regular review procedures of this title and may not fully comply with the development standards of this title. Such uses may be reestablished as they previously existed if damaged or destroyed (see YMC Chapter 15.18). Previously established uses which were legally established prior to the adoption of this title, but which have a principal use which would not be permitted in the zoning district in which it was located, are called “nonconforming uses.” Such uses are allowed to continue, but are subject to more restrictions (see YMC Chapter 15.19).

D. **Changes and Alterations to Uses and Development.** Changes and alterations to approved, existing, or nonconforming uses or development are also regulated by this title and are called “modifications.” Certain nominal modifications to “approved” or “existing uses” are exempt. Other modifications to “approved” or “existing uses” which are minor and meet certain criteria can be administratively approved with minimal review. Procedures for such modifications are contained in YMC Chapter 15.17. More significant changes to “approved” or “existing” uses and development, which do not meet the exemptions or administrative approval criteria of YMC Chapter 15.17, must be reviewed using the normal Type (1), (2), or (3) review procedures of this title. Modifications to nonconforming uses are regulated by YMC Chapter 15.19. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.01.050 Compliance.

No structure, land, or use shall hereafter be constructed, erected, maintained, enlarged, altered, repaired, moved, improved, removed, converted, or demolished except as authorized by the terms of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.01.060 Conflict of provisions.

In the case of conflicts between parts of this title and other rules, regulations, resolutions, ordinances or statutes lawfully adopted by the ~~county~~/city, the most restrictive shall govern. In the case of conflicts between the text, maps and tables of this title, the text shall govern unless otherwise stated. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.01.070 Severability.

This title is declared to be severable. If any division, chapter, section, paragraph, clause or other portion or any part adopted by reference is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of the title, nor shall it affect the application of such portion of the zoning ordinance to other property, uses, or structures. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.01.080 Number and gender.

Words designating the singular number may also be applied to the plural of persons and things; words designating the plural may also be applied to the singular; words designating the masculine gender may be extended to that of the female; and words designating the feminine gender may be extended to that of the male. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.02

DEFINITIONS

Sections:

- 15.02.010 Purpose.
- 15.02.020 Definitions.

15.02.010 Purpose.

This chapter provides definitions for the terms and phrases used in this title. Where any of these definitions conflict with definitions used in other titles of the ~~county~~/city code, the definitions in this chapter shall prevail for the purpose of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.02.020 Definitions.

For the purpose of this title, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified herein unless the context requires a different meaning. Where terms are not defined, they shall have the ordinary accepted meaning within the context with which they are used. Where an activity or land use could fall under two definitions, the more specific shall apply. The Webster's Ninth New Collegiate Dictionary, with the assistance of the American Planning Association's Planner Dictionary and Black's Law Dictionary, shall be the source for ordinary accepted meaning and for the definition of words not defined below. Specific examples are included as illustrations, but are not intended to restrict a more general definition.

"Access driveway" means an entrance roadway from a street or alley to a parking facility.

"Access easement" means any private easement for the purpose of ingress and egress that is not dedicated to the public and that is owned by the underlying owners of land over which it crosses.

"Accessory dwelling unit (ADU)" means a structure meeting the purpose and requirements of YMC 15.09.045 which is attached to a single-family home, or detached garage with living facilities for one individual or family separate from the primary single-family.

"Accessory use" means a use that is subordinate and incidental to a principal use.

"Administrative official" means the duly appointed ~~Yakima County planning official or the~~ city of Yakima director of community ~~and economic~~ development, ~~whichever is appropriate, or their designee.~~

Adult Day Care Center. See "day care facility."

"Adult Family Home" means a regular family abode, licensed by the state, in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services (RCW 70.128.175).

"Agricultural building" means a structure designed and constructed to store farm implements or hay, grain, poultry, livestock, fruit and other agricultural products. Controlled atmosphere and cold storage warehouses are not agricultural buildings. An agricultural building shall not be used for human habitation; for processing, treating or packaging agricultural products; nor shall it be a place used by the public.

"Agricultural market" means a use primarily engaged in the retail sale of fresh agricultural products, grown either on or off site. An agricultural market may include, as incidental and accessory to the principal use, the sale of factory-sealed or prepackaged food products such as boxes of apples or other fruit and some limited nonfood items, and these products shall consist of no more than forty percent of the gross floor area. This definition does not include the sale of livestock.

"Agricultural product support" means a business that provides a product or service intended for use in the processing, storage, preservation, or distribution of agricultural commodities. This definition does not include agricultural processing, storage, preservation, distribution, and related uses.

“Agricultural related industry” means specifically:

1. “Packaging plants” may include, but are not limited to, the following activities: washing, sorting, crating and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agricultural product remains essentially unaltered. This definition does not include processing activities, slaughterhouses, animal reduction yards, or tallow works;
2. “Processing plants” may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. This definition does not include slaughterhouses or rendering plants; and
3. “Storage facilities” include those activities that involve the warehousing of processed and/or packaged agricultural products.

“Agricultural stand” means a structure up to one thousand square feet in area used for the retail sale of agricultural products grown on the premises, excluding livestock raised on the premises.

“Agriculture” means the tilling of soil, raising of crops and horticulture. (See Table 4-1, YMC 15.04.030.)

“Airport commercial” means the retail sale of aviation-related products and services including aircraft service and rental, air passenger services, and air terminal activities including passenger ticketing, baggage, taxi service, car rental, restaurants, hotels, and gift shops.

“Airport industrial” means research, design, fabrication, and assembly of aircraft, aircraft parts, and aviation-related products located at the Yakima Air Terminal. This use also includes storage and wholesale trade of aviation-related products and air cargo operations and associated storage and processing.

“Airport operations” means activities, uses, structures and facilities that are located on and necessary to the operation of the Yakima Air Terminal. These activities and facilities include runways, taxiways, parking ramps and aprons, navigation and radar/radio communication facilities and equipment, safety and emergency facilities, and storage and maintenance facilities.

“Alley” means a public thoroughfare or way twenty feet or less in width which has been dedicated to the city of Yakima or Yakima County for public use. Alleys provide only a secondary means of access to abutting property.

“Amendment” means a change in the wording, content, or substance of this title, or change in the district boundaries on the official zoning map.

“Amusement park” means a permanent indoor and/or outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or the sale of items, and buildings for shows and entertainment.

“Animal clinic/hospital” means a structure used for veterinary care of sick or injured animals. The boarding of animals is limited to short-term care and is accessory to the principal use. This definition does not include kennels.

“Animal husbandry” means the raising of domesticated farm animals when, in the case of dairy cows, beef cattle, horses, ponies, mules, llamas, goats and sheep, their primary source of food, other than during the winter months, is from grazing in the pasture where they are kept.

“Appeal” means a request for review of an administrative official’s or hearing examiner’s decision, determination, order or official interpretation of any provision of this title.

“Applicant” means a person submitting an application for any permit or approval required by this title and who is the owner of the subject property or the authorized agent of the owner.

“Application for development” means the application form and all accompanying documents and exhibits required by this title or the administrative official.

“Arterial” means a principal or minor arterial, as shown in the Yakima urban area transportation plan adopted in the Yakima urban area comprehensive plan.

“Attached” means, in the case of dwellings, two or more dwellings connected by a common vertical wall(s) or roofline, or, in the case of multistory buildings, by a common ceiling/floor(s).

“Auction house” means a structure or enclosure where goods and/or livestock are sold by auction.

Automobile Service Station. See “Service station.”

“Automobile, truck, manufactured home and/or travel trailer sales” means a place used for the display, sale or rental of new or used automobiles, trucks, manufactured and mobile homes, travel trailers, and campers.

“Automotive wrecking or dismantling yard” means a place used for the storage and/or sale of used automotive parts and for the storage, dismantling, sorting, cleaning, crushing or baling of wrecked automobiles, trucks, trailers, or machinery.

“Bed and breakfast” means a residential structure providing individuals with lodging and meals for not more than thirty days. For home occupations, such uses are limited to having not more than five lodging units or guest rooms.

“Beverage industries” means the production, processing, and/or packaging of milk, soft drinks, beer, wine, fruit juices and other drinks.

Bingo Parlor. See “Game room.”

“Boardinghouse” means an establishment providing both lodging and meals for not more than ten persons residing in the facility on a permanent or semi-permanent basis.

Building. See “Structure.”

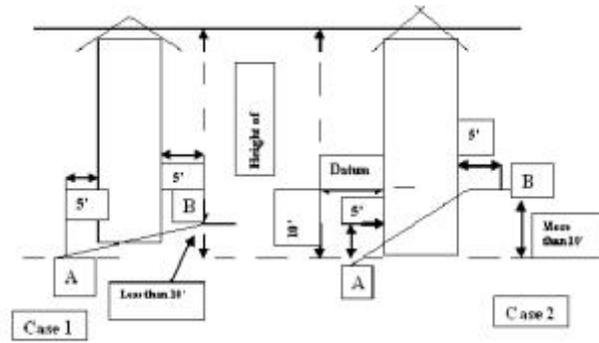
“Building area” means the three-dimensional space within which a structure is permitted to be built on a lot and which is defined by maximum height regulations, yard setbacks and building coverage.

“Building code” means the building code and related codes as amended and adopted by ~~Yakima County~~ the city of Yakima.

“Building height” is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or finished ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or finished ground surface is not more than ten feet above lowest finished grade;
2. An elevation ten feet higher than the lowest finished grade when the highest sidewalk or finished ground surface described in subsection 1 of this definition is more than ten feet above lowest finished grade. (See Figure 2-1.)

The height of a stepped or terraced building is the maximum height of any segment of the building.



Determination of Building Height in Feet

Figure 2-1

“Building official” means that person or persons designated by the legislative body to enforce the provisions of the building code and administer the assigned provisions of this title.

“Business school” means a commercial or public school providing instruction solely in professional skills such as: business management, accounting, secretarial skills, sales, marketing and merchandising.

“Butcher shop” means a custom retail meat cutting operation. This definition does not include slaughtering, but does include other accessory uses such as frozen food lockers.

“Campground” means a development providing facilities for outdoor recreational activities, including structural improvements such as covered cooking areas, group facilities, and travel trailer or tent sites designed for temporary occupancy. This definition includes camping clubs when developed in accordance with applicable state standards.

“Car wash” means a business engaged in washing, waxing and/or polishing cars and small trucks. This definition includes self-service car washes, automated car washes, manned car washes and auto detailing.

Card Room. See “Game room.”

“Caretaker dwelling” means a single-family dwelling unit accessory to an agricultural, professional, commercial, or industrial use for occupancy by the owner/caretaker.

“Center line of right-of-way” means the midpoint between the future alignment of the opposite edges of the right-of-way.

~~“Certificate of zoning review” means that certificate issued by the appropriate administrative official stating that the proposed use of the structure or land conforms to the provisions of this title.~~

“Change of use” means a change from one use listed in Table 4-1, Table of Permitted Land Uses, to another use listed in that table.

“Chicken tractor” means a movable chicken coop lacking a floor, and may house other kinds of poultry.

“Church” means a structure, or group of structures, which by design and construction are primarily used for organized religious services and instruction.

“City” means the city of Yakima.

“Class (1) uses” are those uses set forth and defined in the text and tables of YMC Chapter 15.04 and are considered compatible and are permitted on any site in the district. The administrative official shall review Class (1) uses for compliance with the provisions and standards of this title.

“Class (2) uses” are those uses set forth and defined in the text and tables of YMC Chapter 15.04 and are generally permitted throughout the district. However, site plan review by the administrative official is required in order to ensure compatibility with the intent and character of the district and the objectives of the Yakima urban area comprehensive plan.

“Class (3) uses” are those uses set forth and defined in the text and tables of YMC Chapter 15.04 and are generally incompatible with adjacent and abutting property because of their size, emissions, traffic generation, neighborhood character or for other reasons. However, they may be compatible with other uses in the district if they are properly sited and designed. Class (3) may be permitted by the hearing examiner when he determines, after holding a public hearing, that the use complies with provisions and standards; and that difficulties related to the compatibility, the provisions of public services, and the Yakima urban area comprehensive plan policies have been adequately resolved.

“Class (1), (2) or (3) use, approved” means any use or development approved upon completion of Type (1), (2) or (3) review.

“Class (1), (2) or (3) use or development, existing” means a use or development legally existing or legally established prior to the effective date of this title that has been or would be classified under YMC Chapter 15.04 as a Class (1), (2) or (3) use in a particular district, even though the use has not been through Type (1), (2) or (3) review, and may or may not conform to the standards of this title. This definition includes any existing Class (1), (2), or (3) use with an approved modification under YMC Chapter 15.17.

“Clean and sober facility” means a commercial business providing a dwelling or building for occupation by rehabilitated alcohol and/or drug users, during their re-entry into the community. The clean and sober facility provides residentially oriented facilities for the rehabilitation or social adjustment of persons who may need supervision or assistance in becoming socially reoriented, but who do not need institutional care. (Also see “Halfway house.”)

“Clinic” means a structure for the medical examination and treatment of human patients, but without provision for keeping such patients overnight on the premises.

“Closed record appeal” means an administrative appeal, held under RCW 36.70B, that is on the record to a ~~county~~/city body or officer (including the legislative body) following an open record hearing on a project permit application with no or limited new evidence or information allowed to be submitted and only appeal arguments allowed.

“Coffee/espresso drive-through facility” is a place used to sell coffee and associated items from a drive-up window to a person driving a vehicle.

“Coffee/espresso stand” is a place used to sell coffee and associated items from a bar or counter area commonly inside a building and/or structure.

“Commercial services” means technical services and specialized care services such as lawn and garden care and delivery services, except as otherwise regulated.

“Communication tower” means any tower, pole, mast, whip, or antenna, or any combination thereof, used for radio or television transmission or line-of-sight relay. This definition includes towers erected for use in the amateur radio service.

“Communication tower height” means the vertical distance above the ground measured to the highest point of the communication tower.

“Community center” means a facility owned and operated by a public agency or nonprofit corporation, provided the principal use of the facility is for public assistance, community improvement, or public assembly.

“Community garden” means:

1. Privately or publicly owned land that is used by multiple users who may or may not have ownership of the property;
2. May be divided into separate plots, for the cultivation of fruits, vegetables, plants, flowers, or herbs;
3. Common areas associated with the garden are maintained by group members;
4. The produce or goods grown on site are not for commercial sale;
5. A community garden is different than a “collective garden” that is used for the growing of marijuana plants; and no marijuana shall be grown on a community garden plot;
6. A community garden is separate from the use of “agriculture” as defined and regulated under YMC Chapter 15.02 and YMC 15.04.030, Table 4-1, and is different than a privately maintained garden that is associated with a principal use and regulated in accordance with YMC 15.04.060(A); and
7. Structures and buildings associated with a community garden are considered “accessory uses” to a principal use, and shall comply with the provisions of YMC Title 15, and the International Fire and Building Codes.

Community Water System. See “Water system, public.”

“Compatibility” means the characteristics of different uses or developments that permit them to be located near each other in harmony with or without special mitigation measures.

“Comprehensive plan” means the Yakima urban area comprehensive plan and any supplemental plans officially adopted under RCW Chapter 36.70, for the Yakima urban area or any portion thereof.

“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.

“Condition(s) of approval” means restrictions or requirements imposed by an administrative official pursuant to authority granted by this title.

Consulting Services. See “Professional business.”

“Convalescent or nursing home” means an establishment providing nursing, dietary and other personal services to convalescents, invalids, or aged persons, but not mental cases or cases for contagious or communicable diseases which are customarily treated in sanitariums and hospitals.

“Converted dwelling” means a structure which, due to interior alterations, has been modified to increase the number of individual dwelling units. This definition does not apply to multifamily structures constructed under the provisions of this title.

“Cosmetic services” means tattooing, body piercing, and similar services.

“County” means Yakima County.

“Dangerous waste” means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste.

“Day” means calendar day. (See YMC 15.20.110.)

“Day care center” means a day care facility that supplies care, attention, supervision and oversight serving thirteen or more children regardless of whether such services are provided for compensation, governed by Washington State DSHS licensing provisions for said day care use and conducted in accordance with state DSHS requirements.

“Day care facility” means a building or structure in which an agency, person or persons regularly provide care for a group of nonrelated individuals (children or adults) for periods of less than twenty-four hours a day. This includes family day care homes and day care centers.

“Day care home, family” means a family day care home located in a private home that supplies care, attention, supervision, and oversight for one to twelve children, governed by Washington State DSHS licensing provisions for said day care use and conducted in accordance with said state DSHS requirements.

“Delicatessen and other specialty food stores” means retail food stores selling ready-to-eat food products such as cooked meats, prepared salads or other specialty food items. This definition includes seafood, health food and other specialty food stores having seating for no more than five persons.

“Department” means ~~either the Yakima County planning division or the~~ city of Yakima department of community ~~and economic~~ development.

“Desktop publishing” means activity related to the use of computers in order to produce documents for personal use or for other uses.

“Development” means “use” as defined by this title.

“Development permit” means written authorization for development or modification of development as defined in this title. When a building or other construction permit is required, the building/construction permit shall serve as the other development permit. If no building/construction permit is required, the ~~certificate of zoning review~~zoning decision shall serve as the development permit.

“Development, planned residential” means, in the residential districts, the coordinated development of a single lot with a number of residential structures and/or dwelling types which are designed to:

1. Maintain the character of the residential neighborhood;
2. Provide compatibility between various types of dwelling units, off-street parking and other uses within the site; and
3. Share such site amenities as off-street parking, access drives, open space and recreational facilities.

This definition includes the clustering of residential units on a single lot. In the commercial districts, “planned residential development” means a mixed-use development combining multifamily residential and commercial use(s) into a single coordinated project.

“Divide” means any transaction or action, not otherwise exempt or provided for under the provisions of this title, which alters or affects the shape, size or legal description of any part of an owner’s “land” as defined in this chapter. Sale of a condominium apartment and rental or lease of a building, facility or structure which does not alter or affect the legal description of an owner’s “land” shall not constitute a division of land.

“Domestic farm animal” means animals domesticated by man to live in a tame condition. This definition includes dairy cows, beef cattle, horses, ponies, mules, llamas, goats, sheep, rabbits, poultry, and swine.

“Domestic farm animal—Pet” means four or fewer hen chickens (no roosters) or rabbits that are kept for pleasure or as a hobby rather than utility. Domestic farm animals that are considered pets are regulated under the provisions of YMC 15.04.060(D), Accessory uses, Pets, and are not subject to the provisions of YMC 15.09.070, Special requirements for animal husbandry.

“Driveway” means the private traveled access to a property or through a parking lot for three or more vehicles.

“Drugstore” means a store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines, but where nonmedical products are sold as well.

“Dwelling” means a structure or portion thereof designed exclusively for residential purposes.

“Dwelling, multiple-family” means a structure or structures, or portion thereof, designed for occupancy by three or more families living independently of each other and containing three or more attached dwelling units on a lot.

“Dwelling, single-family” means a structure designed to contain a single dwelling unit. Single-family dwellings are further classified by their nature of construction as follows:

1. Site-built: Constructed primarily at the occupancy site and permanently affixed to the ground by a foundation.
2. Modular home: See “Modular home.”
3. Manufactured home: See “Manufactured home” and “Mobile home.”

“Dwelling, single-family attached” means two single-family dwellings that are attached, but with each dwelling unit located entirely on its own lot. This definition does not include row houses or other housing types with more than two attached single-family dwellings.

“Dwelling, single-family detached” means one dwelling unit located on one lot and not attached to any other dwelling unit.

“Dwelling, two-family” means a structure designed exclusively for occupancy by two families living independently of each other and containing two attached dwelling units on the same lot. This definition includes the term “duplex.”

“Dwelling unit” means one or more rooms in a dwelling for the occupancy of one family and providing complete and independent living facilities, including permanent provisions for living, sleeping, cooking, eating and sanitation. “Dwelling unit” does not include recreational vehicles or mobile homes.

“Earthen material” means sand, gravel, rock, aggregate and/or soil.

“Environmental review” means the procedures and requirements established by the State Environmental Policy Act, RCW Chapter 43.21C, as it now exists or is hereafter amended.

“Existing uses” means a use or development legally existing or legally established by a jurisdiction prior to the effective date of this title that has been or would be classified under YMC Chapter 15.04 as a Class (1), (2), or (3) use in the appropriate zoning district.

“Family” means individuals, consisting of two or more persons related by blood, marriage or adoption, or a group of not more than five persons, excluding servants, who are not related by blood, adoption or marriage, living together as a single housekeeping unit in a dwelling unit.

A. The term “family” shall include:

1. State-licensed adult family homes required to be recognized as residential uses pursuant to RCW 70.128.175;
2. State-licensed foster family homes and group care facilities as defined in RCW 74.15.180, subject to the exclusions of subsection B of this definition; and
3. Group homes for the disabled and consensual living arrangements equivalent to a familial setting required to be accommodated as residential uses pursuant to the Fair Housing Act and the Washington Housing Policy Act, RCW 35.63.220 and RCW 35A.63.240, respectively.

B. The term “family” shall exclude individuals residing in halfway houses, crisis residential centers as defined in RCW 74.15.020(3)(g), group homes licensed for juvenile offenders, or other facilities, whether or not licensed by the state, where individuals are incarcerated or otherwise required to reside pursuant to court order under the supervision of paid staff and personnel.

C. Calculation of Residents. When calculating the number of unrelated persons residing in a single-family dwelling unit, the following rules shall apply:

1. When one or more unrelated persons reside with a family whose members are related by genetics, adoption or marriage, the total number of residents shall not exceed five persons except as provided in subsection (C)(2) of this definition.
2. A family unit consisting entirely of persons related by genetics, adoption or marriage may rent a room to a total of two additional renters, or up to two students as a part of a recognized foreign exchange program or similar educational, nonprofit program, or a combination of a renter and such student to a total of two additional persons. The additional renters and/or foreign exchange students, to a maximum of two, shall not be considered when calculating the number of unrelated persons residing in a dwelling unit under subsection (C)(1) of this section. Three or more renters and/or students shall be considered as unrelated individuals and all persons residing in a dwelling unit, regardless of whether a portion of them are related by genetics, adoption or marriage, shall be considered when determining the total unrelated persons residing at a site.
3. Nothing herein shall be interpreted to limit normal hosting activities associated with residential use.

“Fence” means a structure built to prevent escape or intrusion, or to provide privacy or sitescreening.

“Finding” is a conclusion of fact reached by the administrative official in a review process and based on the evidence available therein.

“Floodplain (one-hundred-year)” means the relatively flat area or lowlands adjoining the channel of a river or stream subject to a one percent or greater chance of flooding in any given year.

“Floodway” means the channel or waterway or those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwaters of the watercourse without causing more than a one-foot rise in the water surface elevation of a one-hundred-year flood.

“Food preparation” means a business, service or facility dealing with the preparation of food items for off-site consumption. This definition includes confectioneries, catering services, and preparation of food items for wholesale.

“Game room” means a commercial facility, or a portion thereof, open to the general public, in which card games, pool, electronic games, bingo, etc., are played; provided, however, that this definition shall exclude “social card room” as defined herein. (Also see “Meeting hall.”)

“Garage, private” means a building or portion of a building designed to store motor vehicles that are used by the occupants of the site’s primary use.

“Garage, public” means a building or portion of a building used for equipping, repairing, servicing, hiring, selling or storing motor-driven vehicles; but excluding private garages.

General Retail Sales.

1. Twelve thousand square feet or less (not otherwise regulated) means the retail sales of merchandise in a store type setting where the building/structure’s gross size is twelve thousand square feet or less.
2. Greater than twelve thousand square feet (not otherwise regulated) means the retail sales of merchandise in a store type setting where the building/structure’s gross size is greater than twelve thousand square feet.

Land uses permitted under the above two categories include, but are not limited to:

Addressing, mailing, and stenographic services	Toy and hobby stores
Antique stores	Jewelry, watches, silverware sales and repair

Artist's supplies	Music stores/instrument sales and repair
Bakeries	Secondhand stores
Book stores	Paint, glass and wallpaper stores
Stationary and office supplies	Pet stores and supplies/grooming
Camera and photographic supplies	Printing, photo copy service
Clothing, shoes, and accessories	Sporting goods and bicycle shops
Computer and electronic stores	Video sales/rental
Collectables (cards, coins, comics, stamps, etc.)	Gift shops
Department stores	Discount store
Drug stores and pharmacies	Variety store
Fabric and sewing supplies	Specialty shops
Florist (indoor sales only)	Small appliances
Specialty food stores	TVs, business machines, etc., sales

Land uses not meeting the intent of the general retail sales and retail trade definitions, as determined by the administrative official, may be either referred to the hearing examiner for a use interpretation under Chapter 15.22 or use classification under YMC 15.04.040.

“Gift shop” means a business primarily engaged in the retail sale of combined lines of gifts and novelty merchandise, souvenirs, greeting cards, balloons, holiday decorations, curios, crafts, and miscellaneous small art goods.

“Glare” is the reflection of harsh, bright light.

“Grade” is the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

Gross Floor Area. See YMC 15.06.040.

“Group home” means a place for handicapped, physically or developmentally disabled adults, or dependent or predelinquent children, providing special care in a homelike environment. This definition includes homes of this nature for six or fewer persons, excluding house parents, which are protected by state or federal law as residential uses.

Halfway House. A “halfway house” shall include residentially oriented facilities that provide:

1. State-licensed group care homes for juvenile delinquents;
2. Houses providing residence in lieu of instructional sentencing;
3. Houses providing residence to individuals needing correctional institutionalization; or
4. Detoxification centers licensed by the state where alcohol and drug abusers can be placed in lieu of incarceration for detoxification and treatment from effects of alcohol and drugs. (See “Clean and sober facility.”)

“Hazardous materials” means any item listed as hazardous by a federal agency or State Department of Ecology or the Yakima regional clean air authority. (See YMC 15.13.020(D).)

“Hazardous waste” means and includes all dangerous and extremely hazardous wastes as defined in RCW 70.105.010.

“Hazardous waste facility, off-site” means hazardous waste treatment and storage facilities that treat and store waste from generators on properties other than those on which the off-site facilities are located.

“Hazardous waste facility, on-site” means hazardous waste treatment and storage facilities which treat and store wastes generated on the same lot.

“Hazardous waste generator” means any person or site whose act or process produces dangerous waste or whose act first causes dangerous waste to become subject to regulations under the dangerous waste regulations, WAC Chapter 173-303.

“Hazardous waste storage” means the holding of dangerous waste for a temporary period. Accumulation of dangerous waste by the generator at the generation site is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

“Hazardous waste treatment” means the physical, chemical, or biological processing of dangerous waste to make such waste nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in value.

“Hearing examiner” means that person appointed by the Yakima city council ~~and board of county commissioners.~~

“Home instruction” means the teaching of an art, hobby, skill, trade, profession or sport as a home occupation, except when otherwise prohibited. (See YMC Chapter 15.04, Table 4-2.)

“Home occupation” means the accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services in the home.

“Home occupation, business administration” means the accessory use of a dwelling as an administrative office for an occupation conducted away from the home. The home is used for phone calls, mail, and completing paperwork associated with a business. This definition does not include manufacturing, sales, repair or other services.

“Homeowners’ association” means a community association, other than a condominium association, in which individual owners share ownership or maintenance responsibilities for open space or facilities.

“Hospital” means an institution providing clinical, temporary, and emergency services of a medical or surgical nature to human patients which is licensed by state law to provide facilities and services for surgery, obstetrics, and general medical practice as distinguished from clinical treatment of mental and nervous disorders.

“Hulk hauler” means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed motor vehicle wrecker or scrap processor in substantially the same form in which they are obtained. A hulk hauler may not sell secondhand motor vehicle parts to anyone other than a licensed vehicle wrecker or scrap processor, except for those parts specifically enumerated in RCW 46.79.020(2), as now or hereafter amended, which may be sold to a licensed vehicle wrecker or disposed of at a public facility for waste disposal. (RCW 46.79.010)

“Impervious surface” means any material reducing or preventing absorption of stormwater into previously undeveloped land.

“Intensity” is the combination of factors (such as visual appearance and building size, traffic generation, noise, dust and light and economic value) associated with a particular use that determines the potential impact of that use on neighboring land uses. The higher the intensity, the greater the possible impact on neighboring land uses. Generally, the intensity of a land use will determine its compatibility with other types of land uses.

“Irrigation and/or drainage facilities” means all irrigation and/or drainage structures, including, but not limited to: standpipes, weir boxes, pipelines, ditches, pump houses, culverts, etc.

“Kennel” means a building, enclosure or portion of any premises in or at which dogs, cats or other domesticated animals are boarded or kept for hire; or in or at which dogs, cats or other domesticated animals are kept or maintained by any person other than the owner; or in or at which six or more cats or four or more dogs over the age of four months are kept or maintained. This definition shall include boarding kennels, but not pet shops, animal hospitals or zoos.

“Land” means a lot or parcel.

“Land use” means the manner in which land and structures are used.

“Landscaping” means the arrangement and planting of trees, grass, shrubs and flowers, and the placement of fountains, patios, street furniture and ornamental concrete or stonework and artificial turf.

“Legislative body” means the ~~board of Yakima County commissioners or the~~ Yakima city council, ~~whichever is appropriate.~~

“Loading space” means an off-street space on the same lot with a structure or use, or contiguous to a group of structures or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which abuts a street, alley or other appropriate means of access and egress.

“Lot” means a division of land:

1. Defined by boundaries and shown on a final plat or short plat officially recorded in the Yakima County auditor’s office; or
2. A legally recognized prior division or parcel under the provisions of Yakima County’s subdivision ordinance (~~YCC Title 14~~) or the city of Yakima’s subdivision ordinance (~~YMC Title 14~~).

“Lot area” means the total horizontal area within the boundary lines of the gross lot.

“Lot, corner” means a lot abutting two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than one hundred thirty-five degrees. (See Figure 2-2.)

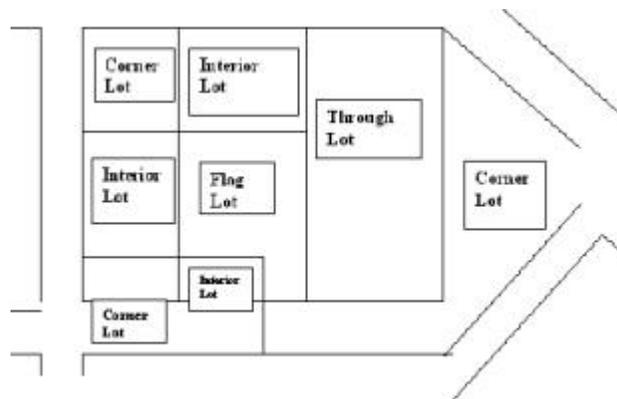


Figure 2-2

“Lot coverage” means that portion of the lot that is covered by structures and other impervious surfaces.

“Lot depth” means the horizontal length of a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line. (See Figure 2-3.)

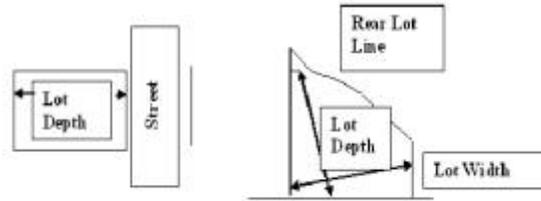


Figure 2-3

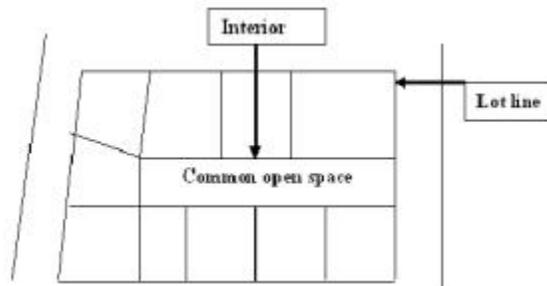
“Lot, flag” means a lot only a narrow portion of which fronts on a public/private road and where access to the public/private road is across that narrow portion. (See Figure 2-2.)

“Lot, inside or interior” means a lot other than a corner lot. (See Figure 2-2.)

“Lot line, front” means, in the case of an interior lot, the property line separating the lot from the road or street, other than an alley. For the purpose of establishing the front lot line for a corner or flag lot, the following shall apply:

1. In the case of a corner lot, the front lot line shall be the property line with the narrowest street frontage, except that the building official, or his designee, shall designate the front lot line for corner lots in residential districts.
2. For a flag lot, when the access easement or right-of-way extends across the lot, the front lot line shall be the line separating the lot from the right-of-way or access easement. When the right-of-way or access easement does not extend across the property, the front lot line shall be determined by the building official.

“Lot line, interior” means, in the case of zero lot line development, the property line separating a zero lot line from: (a) another zero lot line or (b) adjoining common open space. (See Figure 2-4.)



“Lot line, rear” means the property line which is opposite and most distant from the front lot line. For the purpose of establishing the rear lot line of a triangular or trapezoidal lot, or of a lot the rear line of which is formed by two or more lines, the following shall apply:

1. For a triangular or gore-shaped lot, a line ten feet in length within the lot and farthest removed from the front lot line, and at right angles to the line comprising the depth of such lot, shall be used as the rear lot line.
2. In the case of a trapezoidal lot, the rear line of which is not parallel to the front lot line, the rear lot line shall be deemed to be a line at right angles to the line comprising the depth of such lot and drawn through a point bisecting the required rear lot line.
3. In the case of a pentagonal lot, the rear boundary of which includes an angle formed by two lines, such angle shall be employed for determining the rear lot line in the same manner as prescribed for a triangular lot.

“Lot line, side” means any lot boundary line not a front lot line or rear lot line.

“Lot, through” means an interior lot having frontage on two streets. (See Figure 2-2.)

“Lot width” means the horizontal distance between the side lot lines, measured at right angles to the line comprising the depth of the lot at a point midway between the front and rear lot lines. (See Figure 2-3.)

“Low impact development” means stormwater management and land development strategies that emphasize conservation and use of existing natural site features integrated with disturbed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings. Low impact development addresses stormwater management and land development that is applied at the parcel and subdivisions scale that emphasize conservation and use of on-site natural features.

“Manufactured home” means a dwelling on one or more chassis for towing to the point of use which bears an insignia issued by a state or federal regulatory agency indicating that the structure complies with all applicable construction standards of the U.S. Department of Housing and Urban Development definition of a manufactured home and was built after June 15, 1976. Manufactured homes are further classified as follows:

1. “Multi-wide,” has a minimum width of not less than seventeen feet as measured at all points perpendicular to the length of the manufactured home;
2. “Single-wide,” has a minimum width less than seventeen feet as measured at any point perpendicular to the length of the manufactured home.

“Manufactured structure” means a building manufactured with the intent of being transported to a fixed site and constructed in accordance with the building codes as adopted by the city/~~county~~.

“Massage therapy/spa” means a scientific or skillful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting health and physical well-being. The term includes, but is not limited to, manual and mechanical procedures for the purpose of treating soft tissue only, the use of supplementary aids such as rubbing alcohol, liniments, oils, antiseptics, powders, herbal preparations, creams or lotions, procedures such as oil rubs, salt glows and hot or cold packs or other similar procedures or preparations commonly used in this practice. This term specifically excludes manipulation of the spine or articulations and excludes sexual contact.

“Master planned development” means any development within the Yakima urban growth area approved under YMC Chapter 15.28 (i.e., planned residential development, planned commercial development, planned industrial development, and planned mixed-use development).

“Meeting hall” means a private or quasi-private facility in which defined groups or organizations come together for meetings and social events. Includes private bridge club-type card rooms, grange halls, etc.

“Mining” means all or any part of the process involved in quarrying, mineral extraction, crushing, asphalt mixing plants, concrete batch plants, or other uses of a similar nature, but does not include petroleum or natural gas exploration or production.

“Mission” means a facility typically owned or operated by a public agency or nonprofit corporation, providing a variety of services for the disadvantaged, typically including but not limited to temporary housing for the homeless, dining facilities, health and counseling activities, whether or not of a spiritual nature, with such services being generally provided to the public at large. Mission uses shall be Class (2) uses within the GC general commercial, CBD central business district, and M-1 light industrial zoning districts as set forth in Table 4-1, YMC 15.04.030, and subject to a Type (3) review as set forth in Chapter 15.15 YMC with a development agreement incorporating applicable development standards and mitigations imposed by the hearing examiner. Effective as and from August 24, 2015, any modification of an existing mission use shall be subject to the modification procedures and provisions of Chapter 15.17 YMC; provided, that any proposed modification that does not meet the criteria in YMC 15.17.040 for administrative review and approval shall be subject to a Type (3) review with a development agreement incorporating applicable development standards and mitigations imposed by the hearing examiner.

“Mixed-use building” means a building in a commercial district or planned development used partly for residential use and partly for a community facility or commercial use.

“Mixed-use development” means use of the land or structure for two or more different uses.

“Mobile home” means a dwelling on one or more chassis for towing to the point of use which does not meet applicable HUD manufactured housing standards of June 15, 1976. This definition does not include modular homes, manufactured homes, commercial coaches, recreational vehicles or motor homes.

“Mobile home park” means a parcel of land under single ownership used for the placement of two or more mobile or manufactured homes used as dwellings. This definition shall not apply to the placement of a temporary hardship unit (see YMC 15.04.140) on the same parcel with another home.

“Mobile home park expansion” means the preparation of additional sites for mobile or manufactured homes (including the installation of utilities, final site grading, the pouring of concrete pads, and the construction of streets).

“Modification (of use or development)” means any change or alteration in the occupancy, arrangement, placement or construction of any existing use, structure, or associated site improvement, and any change or alteration of land.

“Modular home” means a residential structure which meets the requirements of the International Building Code and is constructed in a factory and transported to the building site. Modular homes are not subject to special review; they are subject to the same review standards as a site-built home.

“Multiple-building complex” means a group of structures housing separate businesses sharing the same lot, access and/or parking facilities.

“Multiple-occupancy building” means a single structure housing more than one retail business, office, or commercial venture.

“Net residential acre” means forty-three thousand five hundred sixty square feet minus the area in private and public streets, rights-of-way, and access easements. (See YMC 15.05.030(B) to calculate the maximum number of dwelling units permitted on a site.)

“Nonconforming lot” means a lot, the area or dimension of which was lawful prior to adoption or amendment of this title, but which fails to conform to the present requirements of the zoning district in which it is located.

“Nonconforming structure” means a structure that was lawful prior to the adoption or amendment of this title that fails, by reason of such adoption or amendment, to conform to the present requirements of the zoning district where it is located.

“Nonconforming use” means a use of land or structure lawfully established and maintained, but which does not conform to this title for the district where it is located.

“Nuisance” means any use, activity or structure that interferes with the enjoyment and use of one’s property by endangering personal health or safety, offending the human senses, and/or failing to conform with the provisions, intent, or standards of the district where the use, activity or structure occurs.

“Nursery” means facilities used for the propagation and sale of agricultural or ornamental plants and related products. Nurseries are further classified as follows:

1. “Retail nursery” means a nursery which offers products to the general public including plant materials, planter boxes, fertilizer, sprays, garden tools, and related items;
2. “Wholesale nursery” means a nursery that raises nursery stock for sale to a retail nursery or other business; and
3. “Greenhouse” means a nursery facility constructed with transparent or translucent materials for indoor propagation of plants. This definition does not include private greenhouses with no commercial sales.

“Occupancy” means the purpose for which a structure, portion of a structure, or lot is used or intended to be used. For purposes of this title, a change of occupancy is not intended to include a change of tenants or proprietors, but is intended to indicate a change in the type of use.

“Off-street parking” means a parking space(s) and associated driveway(s) located beyond the right-of-way of a highway, street or alley.

“Open space” means an area of land or water that is substantially free of structures, impervious surfaces, and other land-altering activities.

“Open space, common” means open space within or related to a development that is not dedicated for public use, but is designed, intended and legally committed for the common use or enjoyment of the residents of the development.

“Park” means a public or privately owned area with facilities for active or passive recreation by the public.

“Parking angle” means the angle formed by a parking stall and the edge of a parking bay, wall or driveway of the parking facility, ranging from zero to ninety degrees.

“Parking bay” means the section of a parking facility containing a driveway and containing one or two rows of parking stalls.

“Parking lot” means a facility designed to serve parking for five or more motor vehicles.

“Parking space” means an off-street area that is paved, drained, maintained and used for the temporary storage of one motor vehicle.

“Parking stall” means a clearly marked area in which one vehicle is to be parked; a parking space.

“Party of record” means the applicant and any other person who has submitted written comment on any action or proposed action, or who has appeared at a public hearing or public meeting and signed an official register requesting notice of further action.

“Permit” means written governmental approval issued by an authorized official, empowering the holder thereof to take some action permitted only upon issuance of written approval.

“Personal services” means a business providing specialized services such as interior home or business design and shopping services, except as otherwise regulated.

“Pet” means a domesticated animal kept for pleasure or as a hobby rather than utility including but not limited to: fish, dogs fewer than four, cats fewer than six, hen chickens (no roosters) fewer than five, and rabbits fewer than five.

“Pet day care” means a building or structure in which an agency, person or persons regularly provide care for pets, but not including overnight stays. Uses not meeting this definition shall be considered kennels.

“Planning commission” means the duly constituted planning commission for the city of Yakima.

“Planning division” means the ~~Yakima County planning division or~~ the department of community ~~and economic~~ development of the city of Yakima, ~~whichever is appropriate.~~

“Preliminary approval” means the contingent approval by the administrative official using an appropriate Type (2) or (3) review process prior to final approval.

Preschool. See “Day care center.”

“Private access easement” means any private easement for the purpose of ingress and egress that is not dedicated to the public and that is owned by the underlying owners of land over which it crosses.

“Product assemblage” means a business or service involved in assembling products for off-site sales.

“Professional business” means a business primarily engaged in administrative or service-related functions and dependent upon professional staff such as lawyers, doctors, realtors, travel agents, bankers, accountants, engineers and consultants; or providing administrative governmental services.

“Property owner(s)” means the legal owner or owners of the property.

“Public facility” means a facility owned and operated by a governmental agency or owned and operated by a private entity for the purpose of providing essential public services to the public including, but not limited to: water, irrigation, wastewater, garbage, sanitary, transit, police, fire, ambulance, parks and recreation facilities, and street maintenance. The facility should be located to efficiently serve the people benefiting from the service.

“Public hearing” means a meeting open to the public that is announced and advertised in advance at which the public is given an opportunity to participate.

Public Water System. See “Water system, public.”

“Recreational screen” means a protective device for recreational purposes designed to keep recreational equipment within or outside of a designated area. Such uses are typically associated with schools, parks, golf courses, swimming pools, ball fields, and playgrounds.

“Recreational vehicle” means a motorized or nonmotorized vehicle designed and manufactured for recreational use, including, but not limited to: boats, travel trailers, snowmobiles, go-carts, motorcycles and dune buggies.

“Recycling drop-off center” means a commercial facility where products such as aluminum, tin cans, glass, plastic, paper, and other similar products are deposited, sorted and transferred to a recycling processing center for reprocessing.

“Recycling processing center” means a facility where products such as aluminum and tin cans, glass, plastic, paper and other similar products are deposited, sorted, stored, and reprocessed.

“Residential density” means the number of dwelling units per net acre of land. This term includes dwelling unit density.

“Restaurant” means establishments serving prepared food or beverages for consumption on or off premises. This land use includes but is not limited to: restaurants, sandwich shops, coffee shops with or without drive-through facilities (see YMC 15.04.080 for establishments with drive-through facilities), and fast food restaurants, but does not include bars, cocktail lounges, taverns, brewpubs as licensed by the Washington State Liquor Control Board, catering services, or industrial scale food production facilities.

“Retail services” means uses providing services, as opposed to products, to the general public. Examples are eating and drinking establishments, motels, real estate and financial offices, and uses providing health education and social services.

“Retail trade” means those uses primarily engaged in the sale of goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Lumber yards, office supply stores, nurseries, butcher shops, paint stores and similar uses shall be considered as retail trade establishments even though a portion of their business may be to contractors or other business establishments.

“Retaining wall” means a wall made of wood, stone, cement, steel or other products intended to support, retain or stabilize earthen or gravelly materials at either natural or finished grade.

“Retirement home” means an establishment providing domestic care for elderly persons who are not in need of medical or nursing treatment except in the case of temporary illness. This definition does not include nursing, convalescent or rest homes, hospitals or sanitariums.

“Reviewing official” means the building official, administrative official, hearing examiner, city of Yakima planning commission, or legislative body when engaged in any review or approval procedure under the provisions of this title.

“Rezone” means to change the zoning district classification of particular lot(s) or parcel(s) of land.

“Right-of-way, public” means land deeded or dedicated to or purchased by the city of Yakima or Yakima County for existing or future public pedestrian or vehicular access.

“Road, local access” means a public road not designed as a principal arterial, minor arterial, collector arterial or neighborhood collector by Yakima County or the city of Yakima. The primary purpose of a local access road is to connect property along the local access road with the arterial street system.

“Road, private” means a road not designed, built, or maintained by the city, the Washington State Department of Transportation, or any political subdivision of the state.

“Road, public” means the physical improvement of the public right-of-way, including, but not limited to, surfacing, curbs, gutters and drainage facilities, which is maintained and kept open by the city of Yakima or Yakima County for public vehicular and pedestrian use.

“School” means a structure and accessory facilities in which prescribed courses are taught. This definition includes elementary, junior high or high schools and institutions of higher learning, but does not include commercial schools, nursery schools, kindergartens, or day nurseries, except when operated in conjunction with a public, private, or parochial school.

“School, vocational” means the commercial use of a structure or land for teaching arts, crafts, or trades.

“Service station” means a retail facility to supply motor fuel and other petroleum products to motor vehicles, and may include lubrication and minor repair service and incidental sale of motor vehicle accessories.

“Setback, front” is the minimum horizontal distance measured perpendicularly from the centerline of the adjacent right-of-way to the nearest wall of the structure. Where there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline. When there is no right-of-way, the front setback shall be twenty feet from the front property line.

“Setback, side and rear” is the minimum horizontal distance measured perpendicularly from the nearest property line to the nearest wall of the structure, except that a side setback on a corner lot, along the adjacent right-of-way, shall be measured perpendicularly from the centerline of the right-of-way. When there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

“Sewer system, community” means small, self-contained sewage treatment facilities built to serve developed areas generally found outside public sewer service areas.

“Sewer system, individual” means a system designed and constructed on site to dispose of sewage from one or two structures. Septic tank systems are the most common form of individual sewer system.

“Sewer system, regional” means sewer service provided by a municipality or special purpose district.

Sign. See YMC Chapter 15.08 for a complete listing of sign definitions.

“Sign manufacturing and assembly” means the design, manufacturing, and assembly of metal-cased, thermo-formed, wooden, stone, neon, internally lit, or electronic signs.

“Site improvement” means any structure or other addition to land.

“Site improvement, required” means any specific design, construction requirement or site improvement that is a condition of approval for any permit issued under the provisions of this title or which is a part of any site plan approved under the provisions of this title.

“Site plan, detailed” means a general site plan incorporating such additional factors as landscaping, drainage, and others as may be specified.

“Site plan, general” means a sketch drawn to scale showing the actual dimensions and shape of the lot to be built upon, the sizes and location of existing buildings on the lot to the nearest foot, and the location and dimensions of the proposed building(s), structure(s), or alteration(s).

“Social card room” means a commercial facility, or a portion thereof, open to the general public, in which house-banked social card games are played, as that term is defined by RCW 9.46.0282 (or as the same may be subsequently amended hereafter), or in which other activities occur that constitute gambling and are authorized by the Washington State Gambling Commission under RCW 9.46.070 (or as the same may be subsequently amended hereafter), to the extent that said activities include any gambling activity engaging in the use of, or associated with, slot machines (whether mechanical or electronic) or any gambling activity engaging in the use of, or associated with, any other electronic mechanism including video terminals.

Specialty Food Store/Food Store, Specialty. See “Delicatessen and other specialty food stores.”

“Standard, administrative adjustment of” means a change, either an increase or decrease, in one or more of the development standards in YMC Chapters 15.05 through 15.08, in accordance with the provisions of YMC Chapter 15.10.

“Standard, general” means any standard not capable of precise numerical definition, but which expresses the policies of the community in this title and which may be applied by the reviewing official during a Type (1), Type (2) or Type (3) review.

“Standard, specific” means those numerical standards established in YMC Chapters 15.04, 15.05, 15.06, 15.07, 15.08 and 15.09.

“State siting criteria” means criteria for the siting of hazardous waste treatment and storage facilities adopted pursuant to the requirements of RCW Chapter 70.105.

“Stockpiling of earthen materials” means permanent and/or continuous use for storage of rock, gravel, rubble, sand, or soil.

“Storage facilities, bulk” means either enclosed (see “Warehouse”) or outdoor areas designed for the storage of either large quantities of materials or materials of large size. Includes the storage of vehicles when such storage is not incidental and subordinate to another land use and is not vehicle parking, automotive wrecking/dismantling yards or vehicle sales lots.

“Storage facilities, commercial” means enclosed storage areas designated as support facilities for commercial activities and used for the storage of retail materials.

“Storage facilities, residential mini-storage” means enclosed areas providing storage for residential goods and/or recreational vehicles within the structure.

“Storage, vehicle” means keeping vehicles on a given site that are not actively used by the principal occupants of the site. This definition does not include automotive wrecking/dismantling yards or vehicle sales lots.

“Street” means a public or private road.

“Structural alteration” means:

1. Any change in a major component or other supporting members of the structure, including foundations, bearing walls, beams, columns, floor or roof joists, girders, or rafters; or
2. Any change in the exterior lines or configuration of a structure if such changes result in the enlargement of the structure.

“Structure” means anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

“Structure, temporary” means a structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

“Swimming pool” means a contained body of water, used for swimming or bathing purposes, either above ground level or below ground level, with the depth of the container being more than eighteen inches or the area being more than thirty-eight square feet.

“Tavern” means an establishment operated primarily for the sale of wine, beer, or other beverages with any service of food incidental thereto.

“Technical equipment” means medical, dental, fire suppression, restaurant, etc., equipment.

“Towing services” means a service to haul or tow vehicles for service, repair or temporary storage. Any facility, except for wrecking yards, storing a vehicle for five or more days shall be considered a vehicle storage facility. Hulk haulers are not included under this definition.

“Transportation brokerage offices” means establishments primarily engaged in furnishing shipping information and acting as agents in arranging transportation for freight and cargo.

Travel Agency. See “Professional business.”

“Urban growth area” means the area within the city limits of Yakima and Union Gap, and the unincorporated portion of Yakima County within the Yakima urban growth area boundary established by the board of Yakima County commissioners pursuant to RCW 36.70A and adopted in the Yakima urban area comprehensive plan (YUACP) as amended. The boundary and legal description of the Yakima urban growth area is set forth in YMC 15.01.020. The Yakima urban growth area is that area where growth is expected to occur over the next twenty years from the adoption of the YUACP and is the area in which urban level public services are or will be provided.

“Urban services” include, but are not limited to, public water and sewer lines, neighborhood parks, streetlights, police and fire protection.

“Use” means the activity or purpose for which land or structures or a combination of land and structures is designed, arranged, occupied, or maintained together with any associated site improvements. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself, including any grading, leveling, paving or excavation. “Use” also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

Use, Class (1), (2), (3). See Class (1), (2), (3) uses.

Use, Modification of. See “Modification (of use or development).”

“Use, principal” means the primary or predominant use to which a structure, part of a structure, or lot is or may be devoted.

“Use, temporary” means a use established under YMC 15.04.130, for a fixed period of time, with the intent to discontinue such use upon the expiration of the time period.

“Utilities” are those businesses, institutions, or organizations using pipes or conductors in, under, above, or along streets, alleys or easements to provide a product or service to the public.

“Utility services” means facilities operated by utilities, but not including local transmission and collection lines, pipes, and conductors. Such facilities include, but are not limited to, electrical power substations, water reservoirs, and sewage treatment plants.

“Variance” means a modification of the specific regulations of this title in accordance with the terms of this title for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zoning district.

Veterinary Clinic. See “Animal clinic/hospital.”

“Vision triangle” means a triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. (See YMC 15.05.040.)

“Warehouse” means a structure used for the storage of goods and materials. See “Agricultural building.”

“Waste material processing and junk handling” means a place where waste, discarded or salvaged metal, used plumbing fixtures, discarded furniture and household equipment, and other materials are bought, sold, exchanged, stored or baled; and places or yards for the storage of salvaged materials and equipment from building demolition and salvaged structural steel materials and equipment, but excluding establishments for the processing and sorting of garbage, or for the sale, purchase, storage or dismantling of automotive vehicles and machinery. This definition does not include the processing, storage or disposal of hazardous materials.

“Wastewater spray field” means an agricultural or otherwise vegetated field which is irrigated with wastewater or treated sewage. May include storage lagoons utilized solely for storing wastewater before spraying, but not other wastewater treatment facilities. Excludes sprayfields for wastewater defined as hazardous pursuant to RCW Chapter 70.105.

“Water system, public” means any system, excluding a system serving only one single-family residence, providing piped water for human consumption, as defined and/or regulated under WAC 248-54.

“Wholesale trade” means those uses primarily engaged in the sale of merchandise to retailers and to industrial, commercial, institutional or professional business users or to other wholesalers.

“Wineries or breweries” means a winery or brewery for processing and manufacturing purposes only, with limited wholesale trade incidental to the primary use. Wineries and breweries are categorized as follows:

- A. “Basic” does not have a commercial tasting room or restaurant;
- B. “Resort/destination” has either a commercial tasting room or restaurant. This type of winery or brewery is located on a site larger than five acres in size. It could typically be associated, or compatible with: high density residential, resort lodging, or a bed and breakfast;
- C. “Retail” has either a commercial tasting room or restaurant.

“Wrecking yard” means the place of business where motor vehicles or parts thereof are kept by a motor vehicle wrecker subject to state regulation (RCW Chapter 46.80).

“Yard” means an open space, other than a court, on the same lot with a structure.

“Yard, front” means the open area extending along and parallel to the entire length of the front lot line and measured from the property line to the structure.

“Yard, rear” means the open area at the rear of the structure extending the entire width of the lot and measured from the structure to the rear property line.

“Yard, side” means an open area between the side wall line of the structure and the side line of the lot.

“Zero lot line” means the location of a dwelling on a lot in such a manner that one of the sides of the dwelling rests directly on a side lot line.

“Zoning district” means a portion of the Yakima urban growth area within which certain uses of land and structures are permitted and certain other uses of land and structures are prohibited, certain yards and other open spaces are required and specific lot areas are established, all as set forth and specified in this title. This definition also includes the terms “zone” and “use district.”

“Zoo” means a park or facility where animals are kept and raised for visitors to see and observe; zoological park. (Ord. 2015-022 § 2, 2015; Ord. 2014-030 § 1, 2014; Ord. 2013-045 § 1, 2013; Ord. 2011-52 § 1, 2011; Ord. 2011-12 § 1, 2011; Ord. 2010-16 § 1, 2010; Ord. 2008-46 § 1 (part), 2008; Ord. 2005-81 § 1, 2005; Ord. 2002-53 §§ 1, 2, 2002; Ord. 98-60 § 1, 1998; Ord. 98-59 § 1, 1998; Ord. 95-36 § 1, 1995; Ord. 93-81 §§ 1—14, 1993; Ord. 3106 §§ 1—5, 1988; Ord. 3019 §§ 1—10, 1987; Ord. 2947 § 1 (part), 1986).

Chapter 15.03

ZONING DISTRICTS

Sections:

- 15.03.010 Purpose and establishment of zoning districts.
- 15.03.020 District and map overlay intent statements.
- 15.03.030 Map of zoning districts and overlays.

15.03.010 Purpose and establishment of zoning districts.

The following zoning districts are established to protect the public health, safety and general welfare by implementing the goals and policies adopted in the Yakima urban area comprehensive plan.

Residential Districts

- Suburban Residential District (SR)
- Single-Family Residential District (R-1)
- Two-Family Residential District (R-2)
- Multifamily Residential District (R-3)

Commercial Districts

- Professional Business District (B-1)
- Local Business District (B-2)
- Historical Business District (HB)
- Small Convenience Center District (SCC)
- Large Convenience Center District (LCC)
- Central Business District (CBD)
- General Commercial District (GC)
- Regional Development District (RD)
- Airport Support District (AS)

Industrial Districts

- Light Industrial District (M-1)
- Heavy Industrial District (M-2)

District Overlays

- Airport Safety Overlay (ASO)
- Floodplain Overlay (FO)
- Greenway Overlay (GO)
- Institutional Overlay (IO)

— Master Planned Development Overlay (PD)

(Ord. 2008-46 § 1 (part), 2008: Ord. 2001-04 § 1, 2001: Ord. 2947 § 1 (part), 1986).

15.03.020 District and map overlay intent statements.

The district intent statements define the specific purpose of each district and/or zoning map overlay. They shall reflect the policies of the Yakima urban area comprehensive plan; serve as a guide for determining the appropriate location of uses; help determine appropriate conditions for development; and help the administrative official interpret the standards and provisions.

A. Suburban Residential District (SR). The intent of the suburban residential district is to provide a variety of residential lifestyles with densities generally ranging from one unit per five net residential acres to seven units per net residential acre. The higher density is reviewed and considered to be permitted when a public water system and the regional sewer system are available, or if these utilities are not available, community water and sewer systems may be allowed after review by Yakima County health district and the city of Yakima. (See YMC Chapter 15.05, Table 5-1.) This district is further intended to:

1. Limit residential density to one unit per five net residential acres in areas where flooding, airport noise, or other environmental constraints make the land unsuitable for residential use at higher densities. Development at a lower density will be reviewed to allow conversion to higher densities once utilities are available or other limiting issues are mitigated;
2. Maintain surface and groundwater quality along with the avoidance of potential health hazards, by limiting residential density to one unit per five net residential acres, in areas where public services will not be provided, and the dwelling units have individual wells and septic tanks. Development at a lower density will be reviewed to allow conversion to higher densities once utilities are available or other limiting issues are mitigated;
3. Provide the opportunity for suburban residential development, up to three dwelling units per net residential acre, in areas with either public water service or a community sewer system; and
4. Allow residential development to seven dwelling units per net residential acre in areas with both public water service and sewer system.

This district is characterized by a mixture of land uses and residential densities including small farms, scattered low-density residential development, and clusters of higher-density residential development. The minimum lot size in the district varies according to the suitability of the land for development and the provision of urban level services. See YMC 15.05.030(E).

B. Single-Family Residential District (R-1). The single-family residential district is intended to:

1. Establish new residential neighborhoods for detached single-family dwellings free from other uses except those which are compatible with, and serve the residents of this district, which may include duplexes and zero lot lines if established during the subdivision process;
2. Preserve existing residential neighborhoods for detached single-family dwellings free from other uses to ensure the preservation of the existing residential character, and serve the residents of this district; and
3. Locate moderate-density residential development, up to seven dwelling units per net residential acre, in areas served by public water and sewer system.

Detached single-family dwellings are the primary use in this district. The district is characterized by up to sixty percent lot coverage; access to individual lots by local access streets; required front, rear and side yard setbacks; and one and two story structures. The density in the district is generally seven dwelling units per net residential acre or less.

This zone is intended to afford single-family neighborhoods the highest level of protection from encroachment by potentially incompatible nonresidential land uses or impacts. Nonresidential uses within these zones are not allowed;

except for public or quasi-public uses, which will be required to undergo extensive public review and will have all necessary performance or design standards assigned to them as necessary to mitigate potential impacts to adjacent residences.

Development exceeding seven dwelling units per net residential acre may be allowed in accordance with Table 4-1.

C. Two-Family Residential District (R-2). The purpose of the two-family residential district is to:

1. Establish and preserve residential neighborhoods for detached single-family dwellings, duplexes and other uses compatible with the intent of this district; and
2. Locate residential development with densities up to twelve dwelling units per net residential acre in areas receiving a full range of public services including public water and sewer service, and police and fire protection.

The district is characterized by up to sixty percent lot coverage, access via local access streets and collectors, one and two story buildings, some clustering of units, and required front, rear and side yard setbacks. Typical uses in this district are single-family dwellings and duplexes. The density in this district generally ranges from seven to twelve dwelling units per net residential acre. However, development up to eighteen dwelling units per net residential acre may be allowed in accordance with YMC Chapter 15.04, Table 4-1.

D. Multifamily Residential District (R-3). The multi-family residential district is intended to:

1. Establish and preserve high-density residential districts by excluding activities not compatible with residential uses;
2. Locate high-density residential development more than twelve dwelling units per net residential acre in areas receiving the full range of urban services;
3. Locate high-density residential development near neighborhood shopping facilities; and
4. Locate high-density residential development so that traffic generated by the development does not pass through lower-density residential areas.

The district contains a variety of attached or clustered multifamily dwellings.

E. Professional Business District (B-1). The professional business district is intended to:

1. Establish and preserve areas for professional offices;
2. Provide a buffer between commercial clusters and residential neighborhoods; and
3. Locate professional offices in areas presently receiving a full range of urban services.

Professional offices and, in some areas, a mix of professional offices and multifamily dwellings are the primary uses in the district.

Generally, the professional business district contains smaller lot or parcel sizes. Residential densities are generally greater than twelve dwelling units per net residential acre. Building coverage may be as high as eighty percent of the site. Sitescreening requirements have been established to soften the visual impact of large buildings and parking lots and to minimize potential nuisances from light, noise and glare. Development standards are intended to accommodate a mixture of high-density residential development and office uses.

F. Local Business District (B-2). The purpose of the local business district is to:

1. Provide areas for commercial activities that meet the small retail shopping and service needs of the community; and

2. Accommodate small-scale commercial uses that need a higher level of visibility and easy access to major arterials.

Uses characteristic of this district include small retail sales and service establishments.

G. Historical Business District (HB). The purpose of the historical business district is to recognize existing isolated commercial structures in otherwise residential areas, to allow those structures to be occupied by traditional neighborhood business uses, and to allow these structures to be replaced if destroyed. This district is not intended to allow structural expansion, or expansion of the use onto adjoining lots. It is further intended that this district is not to serve as a small convenience center (SCC). Examples of HB uses are: taverns, small grocery stores, laundromats, and other businesses serving the immediate residential neighborhood around this district. This zoning district is not intended to be allowed to be further expanded or formed.

H. Small Convenience Center District (SCC). The purpose and intent of the small convenience center district is to:

1. Provide areas for commercial activities outside the downtown commercial district that meet community retail shopping and service needs; and
2. Accommodate small commercial centers, generally two to five acres in size, where most of the commercial uses have located in a coordinated manner around a common parking lot and one major commercial approach driveway.

Small convenience centers serve the day-to-day convenience shopping and service needs of the surrounding neighborhood and should be designed to minimize undesirable impacts of the center on the neighborhood it serves. Uses in this district should be retail or personal service establishments dealing directly with the consumer, the primary occupants usually being such uses as a supermarket, fast food restaurants and drug store.

I. Large Convenience Center (LCC). The purpose and intent of the large convenience center district is to:

1. Provide areas for commercial activities outside the downtown commercial district that meet the retail shopping and service needs of the community; and
2. Accommodate commercial centers, generally five to ten acres in size, where most of the commercial uses are coordinated in a manner around a common parking lot and usually with two major commercial approach driveways.

Large convenience centers serve the shopping and service needs of multiple surrounding neighborhoods and should be designed to minimize the impacts. Uses in this district should be larger retail or personal services, the primary occupants usually being such uses as multiple-tenant shopping, restaurants, office complexes, and multi mixed-uses.

J. Airport Support District (AS). The purpose of the airport support district is to accommodate airport and aircraft related activities within the airport property. This district includes the Yakima Air Terminal. A variety of uses are permitted. However, the intensity of development is directly related to airport and/or aircraft related uses.

K. General Commercial District (GC). The purpose of the general commercial district is to accommodate wholesale and retail activities with some high-density residential development. This district is primarily located near and along the major arterials as designated in the Yakima urban area comprehensive plan. Like the CBD district, a variety of land uses are permitted. However, the intensity of development is intended to be less than in the CBD district.

L. Central Business District (CBD). The purpose of the central business district is to preserve the business district of the city of Yakima as the region's center of commerce, finance, government, industry, recreation, and culture. This district is characterized by very intensive development and a variety of land uses including retail sales and service establishments, high-density residential development, financial institutions, professional buildings, and government offices.

M. Regional Development District (RD). The purpose of the regional development district is to provide high visibility from the interstate and state highways of the city of Yakima to provide regional commerce, office campus, recreation, large-scale retail, culture, and large multiple mixed uses. This district is characterized by very intensive development and a variety of land uses including retail sales and service establishments, high-density residential development, financial institutions, professional office buildings, hotels, condominiums, and corporation headquarters.

N. Light Industrial District (M-1). The intent of the light industrial district is to:

1. Establish and preserve areas near designated truck routes, freeways, and the railroad for light industrial uses;
2. Direct truck traffic onto designated truck routes and away from residential streets; and
3. Minimize conflicts between uses in the light industrial district and surrounding land uses.

The light industrial district provides areas for light manufacturing, processing, research, wholesale trade, storage, and distribution facilities.

Uses permitted in this district should not generate noise levels, light, odor, or fumes that would constitute a nuisance or hazard.

O. Heavy Industrial District (M-2). The intent of the heavy industrial district is to:

1. Establish and preserve areas near designated truck routes, freeways, and railroads for heavy industrial uses;
2. Direct heavy truck traffic onto designated truck routes and away from residential streets; and
3. Minimize conflicts between heavy industrial uses and surrounding land uses.

The heavy industrial district provides areas for manufacturing, assembling, fabrication, processing, and distribution and storage facilities. Uses in this district have the potential to generate high levels of noise, light, odor, fumes, or smoke that require their protection from encroachment by incompatible land uses.

P. Airport Overlay (AO). The airport overlay is intended to protect the airspace around the Yakima Air Terminal at McAllister Field from airspace obstructions or hazards and incompatible land uses. In addition to the regulations of the principal use district, the airport overlay includes provisions for:

1. Preserving land adjacent to the Yakima Air Terminal at McAllister Field for future commercial and industrial development; and
2. Assuring that land uses, locating near the airport, are compatible with noise, height obstruction and other impacts from the airport operation.

Q. Floodplain Overlay (FO). The purpose of the floodplain overlay is to:

1. Protect natural drainage system associated with floodways and floodplains;
2. Ensure that new development will not affect the flood elevations in surrounding areas;
3. Ensure adequate protection of life, health, and property from flood events;
4. Control development located within the 100-year floodplain unless it is possible to mitigate;
5. Ensure development is restricted within the floodway unless it is water dependent;
6. Emphasize FEMA standards in planning for flood prevention and damage reduction;

7. Comply with the city of Yakima's shoreline master program;
8. Minimize the expenditure of public money for flood-control projects;
9. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken with public money;
10. Minimize damage to public facilities and utilities such as water lines, sewer lines, and streets;
11. Protect river, creek, and stream channels from encroachment so that flood heights and flood damage will not be appreciably increased;
12. Ensure that potential buyers are notified that FEMA mapping is used to help identify that property is in an area of special flood hazards;
13. Ensure that property owners who occupy flood hazard areas have adequate information when they apply for development changes to their property so the property owner can assess the results of their development actions;
14. Continue to implement the National Flood Insurance Program; and
15. Use and enforce the building code to help minimize losses due to flooding.

R. Greenway Overlay (GO). The Yakima River Regional Greenway Plan was adopted to preserve and maintain the Yakima River as a natural resource for all citizens to enjoy. The greenway corridor extends from Yakima Canyon to Union Gap. Greenway boundaries were originally defined in 1977 by the State Legislature with the creation of the Washington State Yakima River Conservation Area.

The greenway corridor is classified into natural, conservation, and recreation areas. Each greenway corridor area may contain various facilities developed by the Greenway Foundation, such as pathways, recreational sites, boat landings, parks, playgrounds, campgrounds, and group camps. Many of the greenway facilities, such as trails, have been constructed on the top of existing dikes and levees. The greenway provides access for levee maintenance and repair and to be responsible for damage to trails caused by flooding.

In addition to the provisions of the principal use district, the purpose of the greenway overlay is to:

1. Make the greenway more attractive and accessible to the public;
2. Assure development conserves shoreline vegetation and controls erosion;
3. Implement the ~~Yakima County~~/city shoreline master program and the Yakima River Regional Greenway Plan;
4. Limit development to activities which are particularly dependent on a location in the greenway;
5. Preserve and protect the fragile natural resources and culturally significant features along the greenway;
6. Increase public access to publicly owned areas of the greenway where increased use is desirable;
7. Protect public and private properties from the adverse effects of improper development in hazardous shoreline areas; and
8. Give preference to uses creating long-term over short-term benefits.

S. Master Planned Development Overlay (PD). The master planned development overlay is intended to allow larger scale, mixed-use developments in selected areas of the city where certain development requirements may be adjusted as necessary to promote an integrated approach to planning and site design. The city finds that such

developments require special review and conditioning to ensure that adjacent areas are preserved and protected. (YMC Chapter 15.28.)

T. Institutional Overlay (IO). The institutional overlay is intended to allow designated community institutions that are valuable and necessary to the community, but which are located adjacent to or within residential zones. The city finds that these institutions require special review and conditioning to ensure that adjacent residential areas are preserved and protected. (YMC Chapter 15.31.)

The institutional overlay includes provisions to:

1. Make the institution more compatible and accessible to the public;
2. Assure development has the ability for future expansion;
3. Provide increased protection such as increased buffers as the institution locates closer to residential districts, especially R-1; and
4. Utilize the goals and policies of the Yakima urban area comprehensive plan. (Ord. 2011-52 § 2 (part), 2011: Ord. 2008-46 § 1 (part), 2008: Ord. 2001-04 § 2, 2001; Ord. 95-13 §§ 1, 2, 1995; Ord. 3019 § 11, 1987; Ord. 2947 § 1 (part), 1986. Formerly 15.03.030).

15.03.030 Map of zoning districts and overlays.

A. Adoption, Changes, Filing, and Replacement.

1. The zoning districts established by this title are defined as shown on the official zoning map for the Yakima urban growth area. The official zoning map, together with all the explanatory material thereon, is adopted by reference and declared to be a part. In addition, any adopted overlay shall be displayed on the zoning map as identified by the adopted ordinance.
2. The official zoning map for the unincorporated portion of the Yakima urban growth area shall be maintained in the Yakima County planning division. The city of Yakima department of ~~community and economic~~ development shall maintain the official zoning map for that portion of the Yakima urban area within the Yakima city limits.
3. Each official zoning map shall be identified by the adopted ordinance of the appropriate jurisdiction and the date of adoption. The official zoning map maintained by the ~~county~~ city shall be the final authority as to the current zoning status of land.
4. Any changes in the district boundaries established by this title shall be made in accordance with the provisions. The official zoning map shall be promptly changed after the amendment has been approved by the respective legislative body.
5. No changes of any kind shall be made on the official zoning map except in conformance with the procedures. Any unauthorized change by any person(s) shall be considered a violation and punishable as provided under YMC Chapter 15.25.
6. If the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the legislative body may, by resolution, adopt a new official zoning map, which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

B. Basis for Mapping the Floodplain Overlay Area, Warning and Disclaimer of Liability. The floodplain overlay shall be that area within the one-hundred-year floodplain shown on the federal flood insurance rate maps (FIRM) for the city and county. The Federal Emergency Management Agency (FEMA) periodically updates these maps. (Ord. 2011-52 § 2 (part), 2011: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.03.040).

Chapter 15.04

PERMITTED LAND USES

Sections:

- 15.04.010 Purpose.
- 15.04.020 Land use classification system.
- 15.04.030 Table of permitted land uses.
- 15.04.040 Unclassified uses.
- 15.04.060 Accessory uses.
- 15.04.070 Overlays.
- 15.04.080 Drive-through facilities.
- 15.04.090 Yard sales.
- 15.04.100 Caretaker dwellings.
- 15.04.110 Swimming pools.
- 15.04.120 Home occupations.
- 15.04.130 Temporary use permits.
- 15.04.140 Temporary hardship unit permits.
- 15.04.150 Standards for mobile/manufactured home parks.
- 15.04.160 Placement of mobile/manufactured homes in residential districts.
- 15.04.170 Placement of manufactured modular nonresidential structures.
- 15.04.190 Social card rooms.
- 15.04.200 State Fair Park—Exposition and Special Events Center.

15.04.010 Purpose.

For any particular district, there are some uses that are consistent with the intent and character of the zoning district; some uses that may be consistent if careful site design neutralizes the adverse characteristics of the use or site; and other land uses that, regardless of site design, are not consistent with the intent or character of the district. The purpose of this chapter is to establish the degree to which each land use is permitted in each district and establish the appropriate type of review for each land use in terms of the specific standards and requirements of each district. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.04.020 Land use classification system.

Land uses within each zoning district shall be classified into four principal categories which establish a class of use. The class of use generally corresponds to a type of review that is based on a level of review complexity. However, certain circumstances may alter the type of review due to a higher or lower complexity.

A. Class (1) uses are permitted, provided the district standards are met. The administrative official shall use the procedures in YMC Chapter 15.13 to review Class (1) uses and associated site improvements. Class (1) uses in certain situations may require a Type (2) review, as required by YMC 15.13.020. The procedures in YMC Chapter 15.14 shall be used to review and evaluate Class (1) uses that require a Type (2) review process.

B. Class (2) uses are generally permitted in the district. However, the compatibility between a Class (2) use and the surrounding environment cannot be determined in advance, and occasionally a Class (2) use may be incompatible at a particular location. Therefore, a Type (2) review by the administrative official is required in order to promote compatibility with the intent and character of the district and the policies and development criteria of the Yakima urban area comprehensive plan. The procedures in YMC Chapter 15.14 shall be used to review and evaluate Class (2) uses. In certain circumstances, the administrative official may require that a Class (2) use undergo a Type (3) review, as provided within this title.

C. Class (3) uses are generally not permitted in a particular district, but may be allowed by the hearing examiner after a Type (3) review and public hearing. The hearing examiner may approve, deny, or impose conditions on the proposed land use and site improvements to promote compatibility with the intent and character of the district and the policies and development criteria of the Yakima urban area comprehensive plan. The procedures in YMC

Chapter 15.15 shall be used to review and evaluate Class (3) uses or Class (2) uses that have been forwarded to the hearing examiner for review.

D. Uses Not Permitted. Any use listed in Table 4-1 and not classified as either a Class (1), (2), or (3) use in a particular district shall not be permitted in that district. A request for an unclassified use, under YMC 15.04.040, that is denied by the hearing examiner is considered as a use not permitted.

E. Multiple Uses. When two or more uses are proposed for the same project, the entire project shall be subject to the type of review required by the highest classified use, Class (3) uses being higher than Class (2), and Class (2) uses being higher than Class (1). (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 12, 1975; Ord. 2947 § 1 (part), 1986).

F. Administrative Official’s Determination of Table of Permitted Land Uses:

1. The administrative official shall be authorized to determine whether a new or expanded use not otherwise identified in Table 4-1 Permitted Land Uses is consistent with or similar to those already provided for within the table.

2. In the event that an applicant is aggrieved by a verbal determination, by the Administrative Official, the applicant may submit a request for a written determination to the City of Yakima Planning Division.

3. If the administrative official cannot conclusively determine that a new or expanded use is consistent with or similar to those identified within Table 4-1, the determination may be referred to the hearing examiner for a interpretation as provided for in YMC Ch. 15.22.

15.04.030 Table of permitted land uses.

Table 4-1 titled “Permitted Land Uses” is incorporated as part of this section. Each permitted land use listed in Table 4-1 is designated a Class (1), (2), or (3) use for a particular zoning district. In addition, some Class (1) uses may require Type (2) review in accordance with YMC 15.04.020. All permitted land uses and associated site improvements are subject to the design standards and review procedures of this title.

Table 4-1 Permitted Land Uses

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
AGRICULTURAL (COMMERCIAL)															
Agriculture, Horticulture, General Farming (not feedlots or stockyards) (*)	1									1				1	1
Agricultural Building (*)	1									1				1	1
Agricultural Chemical Sales/Storage										1				1	1
Agricultural Market (*)	1						1	1	1		1	1	1	1	
Agricultural Stand (*)	1													1	1
Agricultural Related Industries (*)	2									1				1	1
Animal Husbandry (See YMC 15.09.070) (*)	1	2												1	1
Concentrated Feeding Operation (*)	3														
Floriculture, Aquaculture	1													1	1
Fruit Bin Sales/Storage	3									2				1	1

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
Winery and Brewery—Basic (*)											3		3	1	2
Resort/Destination w/on-site agricultural production (*)	2	3		3							3	3	3	3	
Resort/Destination (*)	2	3		3							1	1	1	3	
Retail (*)								1	1		1	1	1	1	2
AMUSEMENT AND RECREATION															
Aquatic Center									3		3	3	1	2	
Amusement Park (Permanent) (*)									3		3	3	1	3	
Bowling Alleys						2		2	2		1	1	2	3	
Campground (*)	3										2				
Drive in Theatres	3										2		2	2	
Exercise Facilities				2	1	1		1	1	2	1	1	1	2	
Horse Racing Tracks, Speedways													3	3	
Game Rooms, Card Rooms, Electronic Game Rooms (*)								3	2	1	2	2	2		
Golf Courses, Clubhouses, Golf Driving Ranges	3	3	3	3											
Miniature Golf Courses						3		3	1		1	1	1		
Movie Theatres, Auditoriums, Exhibition Halls								3	1		1	1	1		
Parks (*)	2	2	2	2	2	2	2	2	2		2	2	1	2	2
Roller Skating or Ice Skating Rink									2		2	1	1	2	
Sports Facility (indoor)								2	2		1	2	1	2	
Social Card Rooms (See YMC 15.09.090) (*)								3	3		3	3			
State Fair Park	(See YMC 15.04.200)														
COMMUNITY SERVICES															
Cemetery/Crematorium with Funeral Home	3	3	3	3	3									3	
Funeral Home not associated with Cemetery/Crematorium	3				2	2		2	1		1	1	2	2	
Churches, Synagogues, and Temples (*)	2	2	2	2	2	2		2	2		1	1	2	2	
Community Center (*) Meeting Halls, Fraternal Organizations	2	2	2	2	2	2	2	2	2		1	1	2		
Community Gardens (*) (if accessory to an approved principal use) (See YMC 15.04.060(G))	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Community Gardens (*) (with planting area of one-quarter acre or less)	1	1	1	1	1	1		1	1	1	1	1		1	
Community Gardens (*) (with planting area of more than one-quarter and up to one-half acre)	2	2	2	2	2	2		2	2	2	1	2		2	

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
Community Gardens (*) (with planting area of more than one-half acre up to one acre)	2	2	2	2	2	2		2	2	2	2	2		2	
Daycare Facilities (not home occupation): Family In-Home (*)	1	2	2	2	2	2	2	2	1		1	1			
Daycare Center (*)	2	2	2	2	1	1	2	1	1		1	1	2	1	
Public Facility (*)	3	3	3	3	2	2		2	2	1	1	1	1	1	1
Hospital (*) Outside Institutional Overlay	3	3	3	3	3						3	3		3	
Correctional Facilities	3										3	3	3	3	3
Libraries	3	3	3	2	1	2	1	1	1		1	1	1		
Museums, Art Galleries		3	3	2	1	2	1	1	1	1	1	1	1		
Schools															
Elementary and Middle	3	3	3	3	3	3					1	3			
Senior High School	3	3	3	3	3	3					3	3			
Business Schools (*)	3	3	3	3	3	3		2	2	1	1	1	2	2	
Community College/University—Inside Institutional Overlay	(See YMC Chapter 15.30)														
Community College/University—Outside Institutional Overlay	3	3	3	3	3	2	2	2	2	3	2	3	2	2	
Vocational Schools (*)	3	3	3	3	3	2		2	2	1	1	1	2	3	
Wastewater Sprayfield (*)	3													3	3
Zoo (*)	3							3	3		3		3		
HEALTH AND SOCIAL SERVICE FACILITY															
Group Homes (six or fewer), Adult Family Home (*)	1	1	1	1	1	1					1	1			
Treatment Centers for Drug and Alcohol Rehabilitation					3	3		3	3		3	3	3	3	
Boarding House (*)	3		3	3	3	3					1	2			
Halfway House (*)				2							3	3			
Group Homes (more than six), Convalescent and Nursing Homes (*)			3	2	2	2					3	3			
Mission (*) (with Type (3) review, and development agreement—see definition)											2	2		2	
MANUFACTURING															
Agricultural Product Support											2	2	2	1	1
Aircraft Parts										1				1	1
Apparel and Accessories											3	2	2	1	1
Bakery Products (wholesale)							2		2		2	2	2	1	1
Beverage Industry (*)											2	2	2	1	1

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
Canning, Preserving and Packaging Fruits, Vegetables, and Other Foods													3	1	1
Cement and Concrete Plants														3	1
Chemicals (Industrial, Agricultural, Wood, etc.)														3	1
Concrete, Gypsum and Plaster Products										2				1	1
Confectionery and Related Products (wholesale)						2		2	2		1	1	2	1	1
Cutlery, Hand Tools and General Hardware										1			3	1	1
Drugs										1	2			1	1
Electrical Transmission and Distribution Equipment										1		2	3	1	1
Electronic Components and Accessories and Product Assembly										1	2	2	3	1	1
Engineering, Medical, Optical, Dental, Scientific Instruments and Product Assembly										1		2		1	1
Fabricated Structural Metal Products										2	3	3		1	1
Food Processing												2	3	1	1
Furniture										2		3	2	1	1
Glass, Pottery, and Related Products and Assembly											2	2	2	1	1
Grain Mill Products											3			1	1
Heating Apparatus Wood Stoves														1	1
Leather Products												3	1	1	1
Leather Tanning and Finishing														1	1
Machinery and Equipment										1	2			1	1
Meat, Poultry and Dairy Products														1	1
Paints, Varnishes, Lacquers, Enamels and Allied Products														3	1
Paperboard Containers and Boxes										1	3			1	1
Plastic Products and Assembly										1	2			1	1
Prefabricated Structural Wood Products and Containers										1				1	1
Printing, Publishing and Binding										1	3		2	1	1
Printing Trade (service industries)						2		2	2		1	1	2	1	
Recycling Processing Center (*)												3		1	
Rendering Plants, Slaughter Houses															3
Rubber Products										1				2	1
Sign Manufacturing and Product Assembly (*)									2	1	1			1	1

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
Sawmills and Planing Mills														2	1
Sheet Metal and Welding Shops											2			1	1
Stone Products (includes finishing of monuments for retail sale)						2				1	2	2	3	1	1
Transportation Equipment, Including Trailers and Campers														1	1
Woodworking: Cabinets, Shelves, etc.									3	1	2		2	1	1
MINING/REFINING/OFF-SITE HAZARDOUS WASTE TREATMENT															
Asphalt Paving and Roofing Materials, Rock Crushing	3													3	1
Mining Including Sand and Gravel Pits (*)	3													3	3
Stockpiling of Earthen Materials (*)	2	2	2	2	1	1	1	1	1	1	1	1		1	1
Off-Site Hazardous Waste Treatment and Storage Facilities (*)														3	3
RESIDENTIAL															
Accessory Uses (*)	See YMC 15.04.060														
Detached Single-Family Dwelling (*)	1	1	1	1	3	3	1	3	3		3		3		
Accessory Dwelling Unit (*) (See YMC 15.09.045)	2	2													
Existing or New Detached Single-Family Dwelling on Existing Lots of 8,000 Square Feet or Less											1		1	1	
Detached Single-Family Dwelling (zero lot line) (*) (See YMC 15.09.040)	2	2	2	2	3	3	1	3	3		3		3		
Attached Single-Family Dwelling, Common Wall (*)	2	2	1	1	3	3	1	2	2		2		2		
Two-Family Dwelling (Duplex) (*)	3	3	1	1	2	2	1	2	2		2		2		
Converted Dwelling (*)	3	3	2	2	2	2	2	2	2		2	1			
Multifamily Dwelling (*): 0—7 DU/NRA			2	1	2	2		2	2		2	2	2		
8—12 DU/NRA			2	1	2	2		2	2		2	2	2		
13+ DU/NRA			3	1	2	2		2	2		2	2	2		
Mixed-Use Building					1	1		1	1		1	1	1		
Planned Development (*)	See YMC 15.28														
Mobile Home Parks (*)	2			2							2				
Mobile Home (*) or Manufactured Homes (*)	See YMC 15.04.160														
Retirement Homes (*)	2		3	1	3						1	1			
Temporary Hardship Units (See YMC 15.04.140)	2	2	2	2	2	2		2	2		2	2		2	
RETAIL TRADE, AND SERVICE															
Adult Business Uses	See YMC 15.09.200														

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
Animal Clinic/Hospital/Veterinarian (*)	3				2	2		2	1	2	1	1		1	
Auction House for Goods (*)	3					2		2	2		1	1	2	1	1
Auction House for Livestock (*)	3													2	2
Automotive															
Automotive Dealer New and Used Sales						2		2	2		1	3	1	1	
Weekend Automobile and Recreational Vehicle (RV) Sales									1		1		1		
Automotive: Car Wash/Detailing						2		1	1	1	1		1	2	
Parking Lots and Garages					2	1		1	1	1	1	1	1	1	
Maintenance and Repair Shops						2		1	1	2	1	2		1	2
Paint and Body Repair Shops						2		2	1		1			1	2
Parts and Accessories (tires, batteries, etc.)						2		1	1	1	1	2	1	2	
Towing Services										1	3			1	1
Wrecking and Dismantling Yard (*) and Hulk Haulers (*)														3	1
Bail Bonds											1	1	1		
Beauty and Barber Shops					2	1	2	1	1	1	1	1	1	2	
Bed and Breakfast Inn (*)	2			2	2			2	2		2	1			
Boats and Marine Accessories						2		2	1		1		1	1	
Butcher Shop						1		1	1		1	2	2	1	
Commercial Services (*)					2	1	2	1	1		1	1	1	2	
Communication Towers (*)	See YMC 15.04.180														
Convenience Store—Closed 10:00 p.m. to 6:00 a.m.						1	2	1	1	1	1	1	1	2	
Convenience Store—Open 10:00 p.m. to 6:00 a.m.						2		2	2	1	1	2	1	2	
Pet Daycare/Animal Training (*)	2					1		1	1	2	1		1	2	
Farm and Implements, Tools and Heavy Construction Equipment										1	2		3	1	1
Farm Supplies								2	2	1	1		2	1	
Financial Institutions					1	1		1	1	1	1	1	1		
Fuel Oil and Coal Distributors										1	2			1	1
Furniture, Home Furnishings, Appliances						1		1	1	1	1	1	1		
General Hardware, Garden Equipment, and Supplies						2	1	1	1	1	1	1	1	1	
General Retail Sales 12,000 sq. ft. or less (not otherwise regulated) (*)					2	1		1	1	1	1	1	1	3	
General Retail Sales greater than 12,000 sq. ft. (not otherwise regulated) (*)						2		1	1	1	1	1	1	3	

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
Heating and Plumbing and Electrical Equipment Stores						2		2	1	1	1	1	1		
Heavy Equipment Storage, Maintenance and Repair										1				1	1
Kennels (*)	2													2	2
Laundries, Laundromats and Dry Cleaning Plants						2	2	1	1	1	1	2		1	
Liquor Stores						2		2	1		1	1	1		
Locksmiths and Gunsmiths						1	2	1	1	1	1	2		1	
Lumber Yards								2	1		1			1	1
Massage Therapy/Spa (*)					1	1	1	1	1	1	1	1	1		
Motels and Hotels								2	1	1	1	1	1		
Night Clubs/Dance Establishments								2	1		1	1	1	1	
Nursery (*)	2					1		1	1	1	1		1	1	
Offices and Clinics				3	1	1		1	1	1	1	1	1	2	
Office Contractor Building and Trade (Plumbing, Heating, Electrical, and Painting)				3	1	1		1	1	1	1	1	1	2	
Outdoor Advertising (Billboards)	See YMC 15.08.130														
Pawn Broker						2		1	1		1	2	1		
Radio/TV Studio	3				2	2		1	1		1	1		2	
Recycling Drop-Off Center (*)						1		2	2		1	1	1	1	
Rental: Auto, Truck, Trailer, Fleet Leasing Services with Storage					3	2			1	2	1	2	2	1	2
Rental: Heavy Equipment (except automotive) with Storage														1	1
Rental: Heavy Equipment (except automotive) without Storage											1	2	3	2	
Repairs: Small Appliances, TVs, Business Machines, Watches, etc.						1	2	1	1	1	1	2	1	1	
Repairs: Reupholstery and Furniture						1		1	1	1	1	1	1	1	
Repairs: Small Engine and Garden Equipment						2	2	2	1	1	1	2		1	
Restaurant (*)					2	1		1	1	1	1	1	1	1	
Seamstress, Tailor						1	1	1	1	1	1	1	1		
Service Station (*) Closed Between 10:00 p.m. and 6:00 a.m. (*)						2		1	1	1	1	1	1	1	
Service Station (*) Open Between 10:00 p.m. and 6:00 a.m. (*)						3		2	2	1	1	2	1	2	
Shooting Ranges (indoor)								3	3		3	3		1	
Signs, Printed, Painted or Carved						2			2	1	1	2		1	1

	SR	R-1	R-2	R-3	B-1	B-2	HB	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
Taverns (*) and Bars						1	2	1	1	1	1	1	1	1	
Technical Equipment Sales (*)					2	1	2	1	1	1	1	1	1	1	
Truck Service Stations and Shops											3		2	1	1
Truck (Large), Manufactured Home and Travel Trailer Sales											1		3	1	
Waste Material Processing and Junk Handling (*)														3	1
TRANSPORTATION															
Bus Terminals										1	1	1	1	1	1
Bus Storage and Maintenance Facilities														1	1
Transportation Brokerage (*) Offices, with Truck Parking									2		2			1	1
Contract Truck Hauling, Rental of Trucks with Drivers											1			1	1
Air, Rail, Truck Terminals (for short-term storage, office, etc.)										1		2		1	1
Railroad Switch Yards, Maintenance and Repair Facilities, etc.														1	1
Taxicab Terminals, Maintenance and Dispatching Centers, etc.									3		3			1	
Airport Landing Field										1					
Airport Operations (*)										1					
UTILITIES															
Power Generating Facilities													3	2	1
Utility Services (substations, etc.)	3	3	3	3	3	3		3	3		3			1	1
WHOLESALE TRADE—STORAGE															
Warehouses (*)									3	1	2	2		1	1
Wholesale Trade (*)									2	1	1	2	1	1	1
Storage Facilities, Bulk (*)										1	2			1	1
Storage Facilities Commercial (*)									3	1	2		3	1	1
Residential Mini-Storage (*)				3		3				1	2		3	1	1
<p>* Refers to a definition in YMC Chapter 15.02. = Not Permitted 1 = Class (1) Permitted Use 2 = Class (2) Requires an Administrative Review by the Administrative Official 3 = Class (3) Requires a Public Hearing by the Hearing Examiner</p>															

(Ord. 2015-022 § 3 (Exhs. A, B), 2015; Ord. 2014-030 § 2, 2014; Ord. 2012-34 § 1, 2012; Ord. 2011-52 § 3, 2011; Ord. 2011-12 § 2, 2011; Ord. 2010-16 § 2, 2010; Ord. 2008-46 § 1 (part), 2008; Ord. 2005-81 § 2, 2005; Ord. 2002-53 § 3, 2002; Ord. 2001-04 § 6 (Att. B), 2001; Ord. 98-61 § 2, 1998; Ord. 98-59 § 2, 1998; Ord. 95-36 § 2, 1995; Ord. 95-13 §§ 3, 4, 1995; Ord. 93-81 § 16, 1993; Ord. 3016 § 6, 1988; Ord. 3019 § 13, 1987; Ord. 2497 § 1 (part), 1986).

15.04.040 Unclassified uses.

Any use not listed in Table 4-1 is an unclassified use and shall be permitted only in those districts so designated by the hearing examiner. Any unclassified use permitted in a particular zoning district shall be allowed only as a Class (2) or (3) use. The hearing examiner shall follow the provisions of YMC Chapter 15.22 when determining which zoning districts are appropriate for a particular unclassified use. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.04.060 Accessory uses.

A. Generally. An accessory use is a use customarily incidental and subordinate to the principal use of a structure or site. Accessory uses are permitted upon compliance with the terms and provisions of this title. They must be clearly secondary to, supportive of, and compatible with the principal use(s) and consistent with the purpose and intent of the zoning district. The land use classification and review requirements of an accessory use shall be the same as that of the principal use(s), unless otherwise specified.

B. On-site hazardous waste treatment and storage is permitted as an accessory use in the SR, B-1, B-2, HB, LCC, CBD, GC, M-1 and M-2 districts, subject to the state siting criteria in the Washington Administrative Code adopted pursuant to the requirements of RCW Chapter 70.105.

C. Garages. Private garages are permitted as an accessory use; provided, that in residential districts they are primarily used to store motor vehicles by the occupants of the residence.

D. Pets. The keeping of pets is permitted as an accessory use; provided, that in residential districts they are subject to the following restrictions (see definitions of “kennel” and “animal husbandry”):

1. They are domesticated animals kept for pleasure or as a hobby rather than utility, including, but not limited to, fish; birds; dogs, four; cats, six; hen chickens (no roosters), fewer than five; and rabbits, fewer than five;
2. Their presence does not create undue noise or odors such as would create a nuisance or diminish the residential nature of the neighborhood;
3. Such animals are properly fed, watered and kept in a humane manner;
4. Any chicken coops, chicken tractors, or rabbit hutches shall be set back ten or more feet from any residence or property line, and five feet from other structures including decks;
5. Hen houses, coops, hutches, and chicken tractors shall be restricted to the backyard area of a residential lot;
6. For chickens and rabbits, adequate fencing shall be installed to contain the animals within the backyard;
7. The other provisions of the YMC for animals are followed.

E. Agricultural Buildings. Where permitted, an agricultural building shall not be used for human habitation, processing, treating or packaging of agricultural products, nor shall it be a place used by the public.

F. Cargo Containers.

1. Not Permitted. Cargo containers shall not be used for storage or other use within the residential, B-1, or B-2 zoning districts for more than two consecutive weeks at a time.
2. Permitted. Cargo containers and/or semi-truck trailers are allowed as an accessory use to a permitted business in the SCC, LCC, AS, GC, RD, M-1 and M-2 zoning districts.
 - a. Provided, all refrigerated cargo containers or semi-truck trailers that are not located within a designated loading dock or loading bay shall be located no less than fifty feet from any existing residential zoning district.

G. Community Gardens. Community gardens (accessory to an approved principal use) are considered an accessory use to a principal use in all zoning districts; provided, the garden is clearly secondary to, supportive of, and compatible with the principal use with regard to size and use. The land use classification and review requirements of an accessory community garden shall follow the Type (1) review requirements of YMC 15.13, and shall otherwise comply with all other provisions of the Yakima Municipal Code, and International Fire and Building Codes. (Ord. 2014-030 § 3, 2014; Ord. 2011-52 § 4, 2011; Ord. 2010-16 § 4, 2010; Ord. 2008-46 § 1 (part), 2008; Ord. 93-81 § 17, 1993; Ord. 3106 § 7, 1988; Ord. 2947 § 1 (part), 1986. Formerly 15.04.050).

15.04.070 Overlays.

A. Purpose. Overlay standards and criteria are established to coordinate the provisions established in the zoning ordinance with more detailed policies and standards adopted in other plans and ordinances for the Yakima River greenway overlay, institutional overlay ~~and~~, floodplain overlay, ~~the~~ airport safety overlay, ~~and master planned development overlay is are~~ established separately ~~as provided by YMC Ch. 15.09 pursuant to YMC Chapter 15.30,~~ and is expressly exempted from the provisions of this section. All overlays are specifically governed by other sections.

B. Project Review in Overlay. In order to assure the appropriate standards are applied:

1. All Class (1) uses in ~~an the greenway~~ overlay unless otherwise specified shall be subject to Type (2) review (YMC Chapter 15.14).
2. All Class (2) uses shall be subject to Type (2) review and Class (3) uses in ~~an the greenway~~ overlay shall be subject to Type (3) review.

C. Specific Development Standards for Overlays. See YMC 15.09.020. (Ord. 2008-46 § 1 (part), 2008).

15.04.080 Drive-through facilities.

A. Review Required. Any commercial use having a drive-through service window or booth shall require one higher level of review than shown in Table 4-1, except:

1. Those noted as a Class (3) use requiring a Type (3) review shall remain a Type (3) review; and
2. Financial institutions or properties that do not abut residential zones.

B. Purpose. Such review is required in recognition of the potential impacts of drive-through uses on adjoining residential uses and the transportation system.

C. Elements of Review. Review is intended to modify or mitigate negative impacts upon adjoining residential uses and the transportation system. The review of a drive-through facility shall include consideration of impacts from the following: noise from the drive-through speaker and/or car radio, glare from vehicle headlights and exterior lighting fixtures, fumes to residential uses, and impacts to transportation traffic flow and carrying capacity of the arterial street system. The proposed site will require an on-site interior parking circulation plan as defined by YMC 15.06.030 and 15.06.080.

D. Definition. For purposes of this section, “drive-through” facilities means a window or station for providing service to customers who remain in their vehicle to conduct a business transaction, excluding gas stations and car washes. (Ord. 2008-46 § 1 (part), 2008; Ord. 93-81 § 18, 1993. Formerly 15.04.055).

15.04.090 Yard sales.

Yard or garage sales shall be permitted as an accessory use to a dwelling provided all of the following provisions are met:

1. Only two yard sales per dwelling unit per year shall be allowed; and
2. Each yard sale shall not exceed three days in duration. (Ord. 2008-46 § 1 (part), 2008; Ord. 2947 § 1 (part), 1986. Formerly 15.04.060).

15.04.100 Caretaker dwellings.

Caretaker dwellings or shelters for the occupancy of guards, watchmen, or caretakers are permitted as accessory uses in the GC, M-1 and M-2 districts. Caretaker dwellings or shelters are also permitted in the B-2, SCC, LCC and CBD districts when the dwelling is located within the structure used for the principal use. No other dwelling unit(s) or shelter(s) shall be allowed on the same parcel. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 14, 1987: Ord. 2947 § 1 (part), 1986. Formerly 15.04.070).

15.04.110 Swimming pools.

Swimming pools are permitted as an accessory use to: dwellings, hotels/motels, boardinghouses, retirement homes, and other residential uses, schools, and recreational facilities when all of the provisions of YMC 15.05.020(K) are met. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.04.080).

15.04.120 Home occupations.

A. Purpose. The conduct of a business within a dwelling may be permitted in the residential districts under the provisions of this section. It is the intent of this section to:

1. Ensure the compatibility of home occupations with other uses permitted in the residential districts; and
2. Maintain and preserve the character of residential neighborhoods; and
3. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

B. Table of Permitted Home Occupations. Table 4-2 titled “Permitted Home Occupations” is incorporated as a part of this section. Each permitted home occupation listed in Table 4-2 is designated as a Class (1), (2) or (3) use for a particular residential zoning district. All permitted home occupations are subject to the standards of this title, including the specific conditions of subsection C of this section and the applicable review procedures of YMC Chapters 15.13, 15.14 and 15.15. Specific uses not permitted as home occupations are listed in subsection G of this section.

Table 4-2. Table of Permitted Home Occupations

	Zoning District				
	SR	R-1	R-2	R-3	B-1
Accountant	1	1	1	1	
Architect	1	1	1	1	
Artist, author, arts and crafts	1	1	1	1	
Attorney	1	1	1	1	
Barbershop, beauty parlor	2	2	2	2	
Bed and breakfast*	1	2	1	1	
Business administration	1	1	1	1	
Cabinet, mill work, carpentry work	2				2
Catering service	2	2	2	2	2
Ceramics and sculpting	2	2	2	2	
Composer	1	1	1	1	
Day care, family home*	1	1	1	1	1

	Zoning District				
	SR	R-1	R-2	R-3	B-1
Dentist	1	2	2	2	
Dog grooming	2	3	3	3	3
Dressmaker, seamstress, tailor	1	1	1	1	
Engineer	1	1	1	1	
Food preparation*	1	2	1	1	1
Home instruction* 1—5 students	1	1	1	1	1
6—8 students	2	2	2	2	2
Insurance agent	1	1	1	1	
Locksmith	1	2	2	1	1
Photographer (not including productions studio)	1	2	2	2	
Physician	1	2	2	2	
Product assemblage*	1	2	2	2	1
Massage therapy/spa*	1	1	1	1	1
Music teacher	1	1	1	1	
Production of small articles by hand without the use of automated or production line equipment	1	2	2	2	
Radio, television and small appliance repair	2	2	2	2	
Real estate agent	1	1	1	1	
Secretarial, phone answering, desktop publishing service*	1	1	1	1	
Small engine repair	2				
Wedding service	2	2	2	2	2
Unclassified home occupation	See YMC 15.04.120(F)				
<p>NOTES:</p> <p>* Refers to definition in YMC Chapter 15.02</p> <p>1 = Type (1) Permitted Home Occupation</p> <p>2 = Type (2) Review and Approval by the Administrative Official Required</p> <p>3 = Type (3) Review Public Hearing and Approval by the Hearing Examiner Required</p> <p>= Not Permitted</p>					

C. Necessary Conditions. Home occupations are permitted as an accessory use to the residential use of a property only when all the following conditions are met:

1. The home occupation is conducted inside a structure within property on which is established the primary residence of the practitioner(s);

2. The home occupation is incidental and subordinate to the residential functions of the property. No action related to the home occupation shall be permitted that impairs reasonable residential use of the dwelling;
3. There are no external alterations to the building which change its character from a dwelling;
4. The portion of the structure or facilities in which a home occupation is to be sited must be so designed that it may be readily converted to serve residential uses;
5. The business is conducted in a manner that will not alter the normal residential character of the premises by the use of color, materials, lighting and signs, or the emission of noise, vibration, dust, glare, heat, smoke or odors;
6. The home occupation does not generate materially greater traffic volumes than would normally be expected in the residential neighborhood;
7. There is no outside storage or display of any kind related to the home occupation;
8. The home occupation does not require the use of electrical or mechanical equipment that would change the fire rating of the structure;
9. The home occupation does not require the use of electrical equipment that exceeds FCC standards for residential use;
10. The home occupation does not increase water or sewer use so that the combined total use for the dwelling and home occupation is significantly more than the average for residences in the neighborhood;
11. A business license is purchased where required;
12. The home occupation is conducted only by immediate family members residing in the dwelling;
13. All stock in trade kept for sale on the premises is produced on site by hand without the use of automated or production line equipment.

In granting approval for a home occupation, the reviewing official may attach additional conditions to ensure the home occupation will be in harmony with, and not detrimental to, the character of the residential neighborhood. Any home occupation authorized under the provisions of this title shall be open to inspection and review at all reasonable times by the building and enforcement official for purposes of verifying compliance with the conditions of approval and other provisions of this title.

D. Nameplates. Only one nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation (e.g., John Jones, Accountant). The nameplate shall be attached to the dwelling, but shall not exceed two square feet in area or be illuminated.

E. Application Fee and Review Period. Application for a home occupation shall be made in accordance with the provisions of YMC Chapter 15.11, except as noted, and shall be accompanied by the appropriate filing fee. The administrative official may waive part or all of the requirements for a site plan for Class (1) home occupations.

F. Unclassified Home Occupation—Review by the Hearing Examiner. Home occupations not listed in Table 4-2 shall be reviewed by the hearing examiner in accordance with the provisions of YMC Chapter 15.22; provided, any unclassified home occupation permitted after review and decision by the hearing examiner in a particular district shall be allowed only as a Class (2) or (3) use.

G. Home Occupations Not Permitted. The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home occupations and impair the use and value of a residentially zoned area for residential purposes. Therefore, the uses listed below shall not be permitted as home occupations:

1. Auto repair;

2. Antique shop or gift shop;
3. Kennel;
4. Veterinary clinic or hospital;
5. Painting of vehicles, trailers or boats;
6. Large appliance repair including stoves, refrigerators, washers and dryers;
7. Upholstering;
8. Machine and sheet metal shops;
9. Martial arts school;
10. Taxidermist;
11. Two-way radio and mobile telephone system sales and service;
12. Vehicle sign painting (except for the application of decals);
13. Firearm sales and/or gunsmith.

H. Denial of Application for a Home Occupation. An application for a home occupation shall be denied if the administrative official finds that either the application or record fail to establish compliance with the provisions of this chapter. When any application is denied, the administrative officer shall state the specific reasons and cite the specific provisions and sections of this title on which the denial is based.

I. Parking. The administrative official shall determine parking requirements for home occupations, as provided by YMC 15.06.040(B). This determination may be guided by, but not restricted by, the standards of YMC Chapter 15.06. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 19, 1993: Ord. 3245 § 6, 1990; Ord. 3019 §§ 15—17, 1987; Ord. 2947 § 1 (part), 1986. Formerly 15.04.090).

15.04.130 Temporary use permits.

Temporary use permits may be issued by the administrative official for temporary structures and associated site improvements used for the storage of equipment, or supervisory offices in connection with major construction projects; provided, that such temporary structures and associated site improvements may not be maintained for more than one year. The administrative official may extend this period for one additional year.

A site plan showing the location, size and type of structure is required to be submitted at the time of application for a temporary use permit. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.04.100).

15.04.140 Temporary hardship unit permits.

A. In addition to the maximum number of dwelling units permitted on a lot, a mobile/manufactured home may be permitted as a temporary use in all zoning districts. Applications for a temporary hardship unit permit shall be subject to Type (2) review and shall only be issued when all of the following conditions are met:

1. The applicant provides a physician's statement certifying the accessory living quarters are for a person(s) requiring daily care or supervision;
2. The temporary hardship unit meets the minimum setback and height standards for principal uses in the applicable district;
3. The temporary hardship units and principal dwelling together do not exceed the lot coverage standards for the applicable district;

4. The temporary hardship unit has an approved sewage disposal system, water supply, and electrical connection prior to occupancy;
5. The approval of the unit will not materially harm the public interest, the intent of the district, or the character of the neighborhood; and
6. No rent, fee, payment or charge in lieu thereof may be made between the recipient and providers of special care for use of the temporary hardship unit.

B. Only one temporary hardship unit shall be permitted on a parcel.

C. Temporary hardship unit permits shall be subject to annual renewal, at which time the building official/planning department shall review and certify the justification for continuation of the use, or terminate the permit. The temporary hardship unit shall be removed within ninety days from termination of the use or revocation of the permit. The responsibility for applying for and obtaining an extension of the temporary use permit shall be solely that of the permit holder. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 18, 1987: Ord. 2947 § 1 (part), 1986: Formerly 15.04.110).

15.04.150 Standards for mobile/manufactured home parks.

A. Purpose. The purpose of this section is to establish standards and criteria for development and expansion of mobile/manufactured home parks within the urban area. These standards are provided to ensure uniform, coordinated development of mobile/manufactured home parks and to ensure the general health, welfare and safety of the occupants of mobile/manufactured homes that may be located within a park developed under these standards. These standards shall be applied in a manner that stresses minimizing costs. Alternatives that reduce costs and meet the intent of these standards will be encouraged.

B. Site Plan Requirements. All proposals for mobile/manufactured home parks shall include a site plan based upon a land survey drawn by a licensed architect, engineer or surveyor and shall include the following information in addition to the standard information required for site plans:

1. All spaces shall be clearly delineated on the site plan and include dimensions and square footage for each space;
2. A building envelope shall be shown within each space;
3. Unit setbacks shall be shown for each space;
4. The location of required parking for each unit shall be shown on the site plan;
5. Streets shall be shown on the site plan;
6. Signage for the park and directional signage shall be shown on the site plan;
7. The location of all solid waste containers and screening of containers shall be shown on the site plan; and
8. All facilities, utilities, improvements and amenities shall be shown on the site plan, including pathways, sidewalks, and recreational facilities.

C. Development Standards. All mobile/manufactured home parks shall be developed in compliance with the underlying zoning district and shall be in compliance with this section. The density of a park or park expansion shall not exceed the density of the underlying zoning of the district. All required site improvements shall be installed prior to placement of units in the park. Additional site improvements may be required by the reviewing official.

1. Minimum Space Size and Width. The minimum space size and width for a mobile/manufactured home park, exclusive of streets, shall meet the lot size, lot width and all other standards for detached single-family dwellings, as shown on Table 5-2 of this title. Space size may be reduced with the provision of improvements in accordance with the following:

- a. Provision of Recreational Areas. Space size requirements of the underlying district may be reduced by a maximum of ten percent with the provision of a developed recreational area for use by the residents. The area shall be suitable for active recreation and shall consist of a minimum of ten percent of the park area.
 - b. Provision of Sidewalks. Space size requirements of the underlying district may be reduced by a maximum of ten percent with the provision of sidewalks a minimum of four feet in width, serving at least one side of each street and all recreational areas.
 - c. Provision of Curbs, Gutters and Sidewalks. Space size requirements of the underlying district may be reduced by a maximum of ten percent with the provision of curbs, gutters and sidewalks on both sides of the street.
 - d. Cumulative Space Size Reduction. Space size may be reduced up to twenty percent with the provision of any combination of items in subsections (C)(1)(a) through (c) of this section.
2. Internal Street Paving. A minimum of twenty-four feet of paved internal street shall be required for access to each unit, paved in accordance with YMC 15.06.110.
 3. Off-Street Parking. Two paved off-street parking spaces shall be provided for each unit in accordance with this title, YMC Chapter 15.06.
 4. Street Lighting. A street light shall be provided at each street intersection within the park.
 5. Right-of-Way Dedication and Frontage Improvements. Appropriate provisions for right-of-way dedication and right-of-way improvements adjacent to the park shall be made, including street paving, sidewalks, curbs, gutters, and street lighting. Improvements shall be installed prior to placement of units in the park, unless an appropriate bond or instrument acceptable to the appropriate jurisdiction is provided to guarantee installation of improvements.
 6. Street Signs and Internal Directional Signs. All streets within the park shall be named utilizing blue street signs consistent with the appropriate jurisdiction's public street signs. Internal directional signs indicating unit/space numbers shall be placed at all street intersections within the park.
 7. Utilities. All utilities shall be installed prior to placement of units in the park, including irrigation, domestic water, and sewer. All utilities shall be installed underground, including electrical distribution, telephone, and cable TV. The internal water system shall include fire hydrants located at the direction of the appropriate jurisdiction's fire department.
 8. Minimum Unit Separation. Units shall be separated by a minimum of ten feet, measured from the furthest extremity of each unit, including stairways.
 9. Perimeter Sitescreening and Landscaping. The perimeter of a park shall be sitescreened with a six-foot-high, view-obscuring fence and shall include at a minimum a ten-foot-wide landscape strip adjacent to the fence and within the park consisting of a combination of shrubs, trees and groundcover.
 10. Stormwater Drainage. All stormwater drainage shall be retained on site and a drainage plan shall be approved by the appropriate jurisdiction.
 11. Dumpsters/Solid Waste Containers. Dumpsters and solid waste containers shall be provided for common use, and shall be screened with a six-foot-high, view-obscuring fence or wall and access gate.
 12. Play Area Requirement. Each unit shall provide a play area for children contained within the unit's space, consisting of a minimum size of six hundred square feet and a minimum width of fifteen feet.
- D. Expansion of Existing Mobile/Manufactured Home Parks. All standards of this section shall apply to expansion of existing mobile home parks. The standards shall not apply to existing areas of a park not being

expanded. The examiner may, at his or her discretion, reduce one or more standards of this section for newly expanded areas of a park if expansion plans also include improvements to the existing park area.

E. Maintenance of Common Areas, Landscaping and Open Space/Recreational Areas. All common areas and facilities (including streets, walkways, utilities, landscaping, storage areas, open space, and recreational areas) shall be continuously maintained in good condition by the park owner or designated homeowner's association. An irrigation system shall be installed for maintenance of landscaping and recreational/open space areas that would normally require irrigation.

F. Planned Development Under the Provisions of This Title. Development of a mobile/manufactured home park may be accomplished under the planned development provisions of this title. (See YMC Chapter 15.28.) (Ord. 2008-46 § 1 (part), 2008: Ord. 98-62 § 1, 1998. Formerly 15.04.115).

15.04.160 Placement of mobile/manufactured homes in residential districts.

A. Purpose. The provisions established herein are intended to assure that the siting of manufactured homes is harmonious with the surrounding residential uses and preserves the general character and integrity of the neighborhood.

B. Table of Review Requirements for Mobile/Manufactured Homes. Table 4-3 titled "Review Requirements for Mobile/Manufactured Homes" is incorporated as a part of this section. The table indicates in which residential districts mobile/manufactured homes may be permitted as a Class (1), (2) or (3) use. All manufactured homes on individual lots are subject to the specific conditions of subsection C of this section and the applicable review procedures of YMC Chapters 15.13, 15.14 and 15.15.

C. Siting Standards. All manufactured homes shall be installed in compliance with applicable codes. In addition, manufactured homes installed in the residential districts, not in manufactured home parks, may be required to meet the following siting standards:

1. Roof Slope. Roof slope shall be not less than a two-foot rise for each twelve feet of horizontal run.
2. Roofing Materials. Roofing materials shall be compatible in appearance with surrounding site-built homes.
3. Siding Materials. Siding materials shall be wood, masonite, or other material compatible with surrounding site-built homes.
4. Pit Set. Manufactured homes shall be "pit set" with first floor elevation no more than twelve inches above finished grade. The pit shall be of sufficient depth to accommodate eighteen inches' clearance below the frame of the unit with crawlspace access located near utility connections. The foundation shall be installed in compliance with the requirements of the Washington Administrative Code. Skirting or side walls shall be installed around the perimeter and the tongue and axle shall be removed.

D. Replacement of a Nonconforming Mobile Home on an Individual Lot with Another Mobile Home or Manufactured Home.

1. Type (1) review shall be used to replace a nonconforming mobile home with another mobile home that is newer and the same size.
2. Type (1) review shall also be used to replace a nonconforming mobile home with a manufactured home.
3. Type (3) review shall be used to replace a nonconforming mobile home with another mobile home that is a larger size. A nonconforming mobile home cannot be replaced with an older mobile home.
 - a. The replacement mobile home shall meet all Washington State Department of Labor and Industries (L&I) improvement criteria before the mobile home can be moved to the replacement location site, which is limited to an existing manufactured home park.

b. Verification provided to the appropriate jurisdiction of said improvements and inspections by L&I shall be provided before said replacement.

E. Replacement of an Existing or Approved Manufactured Home on an Individual Lot with Another Manufactured Home. Type (1) review shall be used to replace an existing or approved manufactured home with another manufactured home that is newer and the same size or larger. The modification provisions of YMC Chapter 15.17 shall be used to replace a manufactured home with another manufactured home that is smaller.

F. Siting. Manufactured homes constructed after June 15, 1976, which comply with the following requirements, may be sited in the same manner, and subject to the same conditions, as a site-built home, notwithstanding any other YMC Title 15 requirements.

1. Is a new manufactured home which has not been previously titled to a retail purchaser and is not a “used mobile home” as defined in RCW 82.45.032(2);
2. Is set upon a permanent foundation, as specified by the city of Yakima, and the space from the bottom of the home to the ground is enclosed by concrete or an approved concrete product, which can either be load bearing or decorative;
3. Is in compliance with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;
4. Is thermally equivalent to the state energy code; and
5. Meets all other requirements for a designated manufactured home as defined in RCW 35.63.160.

Table 4-3. Review Requirements for Mobile/Manufactured Homes Previously Titled

	Approved or Existing Mobile Home Parks	Approved or Existing Manufactured Home Subdivisions	On Individual Lots			
			SR	R-1	R-2	R-3
Mobile Homes	1					
Single-Wide (not meeting YMC 15.04.160(C))	1	2	2		3	3
Single-Wide (meeting YMC 15.04.160(C))	1	1	1	3	2	2
Multi-Wide (not meeting YMC 15.04.160(C))	1	1	2		3	3
Multi-Wide (meeting YMC 15.04.160(C))	1	1	1	2	2	2
* Refers to a definition in YMC Chapter 15.02						
1 = Type (1) Permitted Use						
2 = Type (2) Requires an Administrative Review and Approval by the Administrative Official (YMC Chapter 15.14)						
3 = Type (3) Requires a Public Hearing and Approval by the Hearing Examiner (YMC Chapter 15.15)						
= Not Permitted						

(Ord. 2010-16 § 5, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 2005-29 § 1, 2005: Ord. 95-13 § 5, 1995: Ord. 93-81 §§ 20, 21, 1993: Ord. 3106 §§ 8—10, 1988: Ord. 3019 §§ 19, 20, 1987: Ord. 2947 § 1 (part), 1986: Formerly 15.04.120).

15.04.170 Placement of manufactured modular nonresidential structures.

- A. Purpose. To assure public safety and compatibility with the general character and integrity of the district.
- B. Standards. Modular, nonresidential structures are permitted in all districts, subject to compliance with other standards of the district.

C. Definition. A modular nonresidential structure manufactured with the intent of being transported to a fixed site and built in accordance with the building code as adopted by the appropriate jurisdiction. (Ord. 2008-46 § 1 (part), 2008; Ord. 93-81 § 22, 1993. Formerly 15.04.125).

15.04.190 Social card rooms.

In zones where allowed, no social card room shall be permitted within five hundred feet of any public school, private school (meeting the requirements for private schools under RCW Title 28A), church, or park, as measured according to RCW 66.24.010(9) or as the same may be hereafter amended. (Ord. 2008-46 § 1 (part), 2008).

15.04.200 State Fair Park—Exposition and Special Events Center.

A. Purpose. To establish permitted uses and special development standards for the very unique fixed campus of uses and activities of the Central Washington Fairgrounds, hereafter known as the State Fair Park—Exposition and Special Events Center. This section is intended to provide regulatory guidance that will ensure production integrity and economic performance of existing uses and continued development of the campus. The State Fair Park produces and hosts activities in multi-use facilities established specifically to address the unique market response, operations and sustainable economic performance requirements of the exposition and special events industry, which include: production and operational requirements of the annual Central Washington State Fair and nonfair events and use activities; a broad array of land uses and the overall mix of types of uses found to be consistent with the state statutory authorizations for agricultural fairs (RCW Chapter 15.76) and county fairs (RCW Chapter 36.37); in addition to those uses allowed in the general commercial (GC) zoning district.

B. Special Definitions. The area of land currently occupied by the Central Washington State Fair, now named “State Fair Park,” is a unique fixed campus dedicated to providing a special venue for community use, commercial use, trade shows and exposition uses, special event uses, destination attraction uses, permitted uses and similar events. The following special definitions describe broad categories of uses, events and activities allowed within the campus. Each special definition is followed by a representative list of examples to illustrate a range of allowable uses that the campus site might host. The lists are not all-inclusive; new uses and activities determined to be consistent with these special definitions may be added/included through the similar use, use interpretation and unclassified use review processes of this chapter as they are identified.

1. Community uses, events, or activities serve local or area community, social, cultural and service organizations, and local, state and federal agencies. The activities are “nonrevenue generating,” meaning that the event may pay a use fee, but does not facilitate commercial product sales or services where revenues are for profit or financial gain of an individual, corporation or privately held organization. Those entities that generally qualify for community event status are local and area civic groups, service clubs, nonprofit associations, schools and universities, county and city government and other organizations that promote socio-economic well-being, serve a particular class of people, promote quality of life and respond to the safety and welfare of the general public.

Banquets;

Church groups;

Clinics;

Conferences;

Dance classes;

Day camps;

Emergency services;

Family reunions;

Fashion apparel;

Home improvement classes;
Meetings/retreats;
Parties/socials;
Picnics;
Political fundraisers;
Professional/vocational education;
Recreation/leisure classes;
Self-improvement;
Service club fundraisers;
Training classes;
Weddings/receptions; and
Youth equestrian activities.

2. Commercial uses, events or activities include revenue-producing activities when the purpose of the organizer or promoter is to facilitate services or wholesale and retail sales activity, generating revenues for profit or to stimulate market activity creating sales beyond the actual event. Such organizations may include “nonprofit corporations,” for-profit organizations and industry associations that represent a particular product, service, special interest or commercial enterprise that attract general audiences, manufacturers, distributors, buyers or sellers and patrons.

Appliance shows;
Auctions;
Auto shows;
Boat shows;
Breed shows;
Computer shows;
Flea markets;
Fireworks displays;
Floriculture/horticulture shows;
Gun shows;
Home and garden shows;
Livestock: animal exhibitions, shows, training, sales, boarding;
Model shows;
Recreational equipment shows;

Religious festivals;
Sports exhibitions; and
Technology exhibitions.

3. Trade shows and expositions are classified as uses organized for the purpose of promoting a particular line of products, services or commodities within industry classifications, such as transportation, communications, aviation, boating, electronics, agriculture, entertainment/amusement and so forth. The event organizer and/or producer may be an industry association, nonprofit corporation, sponsor or for-profit entity which facilitates an event designed to create business development opportunities, stimulate wholesale and retail transactions, distribute products and create short-term, as well as long-term, sales. Such shows or events are for industry and general public audiences, and are focused on specific products and market, client or customer development, product or service sales and other purposes that stimulate economic activity within a particular industry. The following is a representative list of trade show and exposition uses and activities:

Agricultural industries;
Amusement and entertainment;
Apparel;
Appliances;
Consumer shows;
Electronics/communications;
Environmental science;
Farm equipment;
Food and hospitality;
Forestry;
Interior design;
Medicine;
Outdoor sports;
Professional services;
Public transportation;
Sports products;
Tourism/leisure industries; and
Trade shows.

4. Special event uses, events and activities include functions designed to attract large and diverse audiences, and are typically revenue-producing activities that generate funds through gate and parking fees, product sales, advertising sales, concession contracts, and other revenue sources. Special events generally follow a particular theme, such as cultural or holiday themes, sports or program themes, relative to the purpose of the event, and draw from local and regional market populations. The following is a representative list of special event uses:

Amusement rides and games;

Carnivals;
Circuses;
Concerts;
Fairs;
Festivals;
Games;
Motorized sports;
Pageants;
Rodeos;
Seasonal celebrations;
Socials/galas;
Sporting events/facilities; and
Tournaments.

5. Destination attraction events, uses and activities draw upon resident and visitor population markets, extol leisure and commercial recreation activities and are typically revenue-based enterprises. Destination attractions may include amusement parks, family entertainment centers with special attractions including water features, major rides, cultural entertainment and virtual reality attractions. Destination activities may also include a mix of themed enterprise activities. Other destination attractions may include specialty retail shopping, entertainment center, hospitality, commercial recreation centers, health and fitness facilities and other permanent and temporary structures designed and developed to support destination activities.

C. Allowable Uses. The following uses, including related events and activities, are allowed within the State Fair Park subject to SEPA mitigation where required, the development standards of this code and other construction permit requirements:

1. Existing uses of the State Fair Park campus shall be considered Class (1) uses.
2. Uses identified in subsection B of this section, Special Definitions, or uses determined by the administrative official to be consistent with, and similar to, those special definitions uses as may be determined in accordance with YMC 15.22.050(C)(3) shall be considered Class (1) uses.
3. Uses in Table 4-1 of the GC district, not otherwise listed in subsection B of this section, Special Definitions, shall be allowed according to the type of review indicated.
4. YMC 15.22.050(C)(1), Use interpretations, decisions by the hearing examiner.

D. Annexation—State Fair Park. The annexation of the State Fair Park into the city of Yakima shall not alter any lease agreement by and between Yakima County as lessor and the Central Washington State Fair Association as lessee, or any powers or responsibilities of Yakima County or its lessee relative to the Central Washington State Fair or other activities at the State Fair Park that are subject to the provisions of Chapter 15.76 or 36.37 RCW or other state law. Any future proposed amendments to the Yakima urban area zoning ordinance that would or may affect the operations of the State Fair Park shall be processed in accordance with the ordinary course of administering permanent ordinance amendments. (Ord. 2008-46 § 1 (part), 2008: Ord. 2005-81 § 3, 2005. Formerly 15.04.135).

Chapter 15.05

SITE DESIGN AND IMPROVEMENT STANDARDS

Sections:

- 15.05.010 Purpose.
- 15.05.020 Site design requirements and standards.
- 15.05.030 Creation of new lots—Subdivision requirements.
- 15.05.040 Vision clearance.
- 15.05.050 Street right-of-way dedication.
- 15.05.055 New development improvement standards.
- 15.05.060 Administrative adjustment of certain basic development standards allowed.

15.05.010 Purpose.

The purpose of this section is to establish certain basic development requirements. These are the minimum criteria that must be met to assure land use compatibility and promote the public health, safety and welfare. Some of these requirements are flexible and the administrative official or hearing examiner may adjust them under YMC Chapter 15.10. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.05.020 Site design requirements and standards.

A. Table of Site Design Standards and Subdivision Requirements. The provisions of this chapter and the requirements in Table 5-1 and Table 5-2 are established for all development in the zoning districts indicated.

B. Development on Nonconforming Lots. Development on nonconforming lots is governed by this section and YMC 15.19.040. Except as limited by this title, any permitted use may be allowed on any lot legally created prior to the adoption of this title. Such development and structures are subject to the following additional provisions:

1. Detached single-family dwellings erected on nonconforming lots must meet the following criteria:
 - a. The setback dimensions of the structure conform to the regulations of this title;
 - b. The lot has at least twenty feet of frontage on, or a minimum twenty-foot-wide access easement to, a public or private road;
 - c. All other site design and development criteria other than the lot size requirements of Table 5-2 are met.
2. Zero lot line, common wall, or duplex development may be permitted on such lots in the R-2, R-3 and B-1 districts only if the conditions of subsection (B)(1) of this section are met.
3. Multifamily development may be permitted in the R-2, R-3, B-1, CBD and GC districts only if the criteria of subsection (B)(1) of this section are met.
4. Zero lot line, common wall, duplex or multifamily development is not allowed on such lots in the SR and R-1 zones unless such development is the replacement or reconstruction of a destroyed or damaged existing use, as defined in YMC Chapter 15.19.
5. Any permitted use or structure may be placed on a lot that is nonconforming as to width and/or lot area in the industrial and commercial districts, but only if the criteria of subsection (B)(1) of this section are met.

C. Maximum Lot Coverage. Maximum lot coverage is the percentage of net land area of a site that can be covered with structures and other impervious surfaces. The maximum lot coverage in each district is shown in Table 5-1. In the SR and R-1 districts, this standard is intended to protect the open character of each district, and ensure that land is available to accommodate septic tanks and drainfields. The intent in the R-2 and R-3 districts is to provide areas for landscaping and recreation. Maximum lot coverage requirements in the commercial districts are intended to promote development consistent with the character of the district, protect setbacks, and provide the

opportunity to integrate open space and landscaping plans into the design and placement of the structure and off-street parking.

D. **Structure Setbacks.** Are the minimum structure setbacks permitted in a particular zoning district with Type (1) review. In the residential districts, structure setbacks are intended to provide privacy, light, air and emergency access. Setbacks along easements and rights-of-way are intended to minimize the impacts from traffic on adjoining property owners. In the commercial districts, building setbacks provide visual clearance along streets and areas for sitescreening and landscaping. Structure setbacks are required in the industrial districts to provide fire protection, emergency access, and to reduce impacts on adjacent districts of lower intensity. No structure shall be built or located on or in an easement. The use of an access easement by a structure shall only be allowed upon vacation/alteration of the easement in accordance with provisions established in the city/county subdivision ordinance. The standard structure setback in each district is shown in Table 5-1.

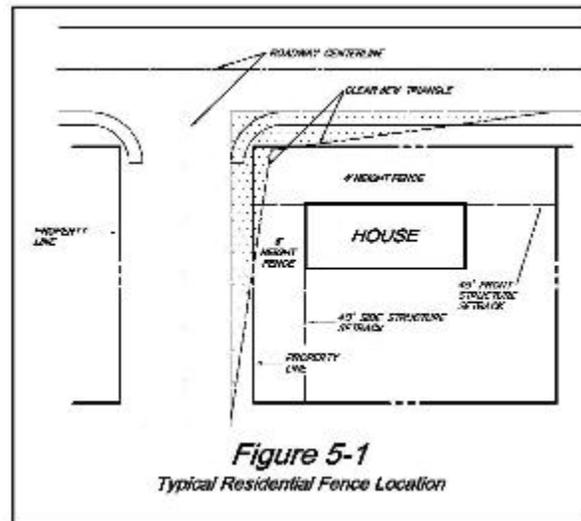
E. **Setbacks for Residential Accessory Structures.**

1. **Residential Accessory Structures Requiring a Building Permit.** The minimum setback for residential accessory structures in the residential districts shall be at least five feet from the side property line, five feet from the rear property line, and up to, but not within, the required front yard setback; provided, that the accessory structure(s) shall not encroach on a public easement and applicable street setbacks are observed.
2. **Residential Accessory Structures Not Requiring a Building Permit.** The minimum setback for a residential accessory structure in a residential district shall be at least five feet from all side and rear property lines, existing structures, and up to, but not within, the required front yard setback; provided, that the accessory structure shall not encroach on an easement.

F. **Maximum Building Height.** Maximum building height is intended to maintain building heights compatible with the character and intent of the district. The maximum building height in each district is shown in Table 5-1.

G. **Fences and Walls—Standard Height.** The following provisions shall govern the location and height of fences and walls:

1. **In the front yard:** fences and walls may be placed on or behind the property line. However, no fence or wall shall exceed four feet in height within the required front yard setback area. In residential districts, six feet shall be the maximum height in the front yard behind the required setback. See Figure 5-1, Typical Residential Fence Location. In commercial and industrial districts, eight feet shall be the maximum height in the front yard behind the required setback.
2. **In the side yard and street side yard:** fences and walls may be placed on or behind the property line. In residential districts, six feet shall be the maximum height; provided, that no six-foot street side yard fence shall extend past the front corner of the dwelling into the front yard or be located within the clear view triangle. See Figure 5-1, Typical Residential Fence Location. In the commercial and industrial districts, eight feet shall be the maximum height.
3. **In the rear yard:** fences and walls may be placed on or behind the property line. In the residential districts six feet is the maximum fence or wall height in the rear yard; provided, that when the rear yard abuts a designated arterial, the maximum height shall be eight feet. Eight feet is the maximum rear yard fence height in the commercial and industrial districts.
4. **Within the clear view triangle:** no fence, hedge or wall, exceeding two and one-half feet in height, shall be placed in the clear view triangles established in YMC 15.05.040.
5. **Fences over six feet in height:** all fences over six feet in height shall meet the provisions of the International Building Code.
6. **Fence height in combination with a retaining wall:** no combination of a fence and retaining wall shall exceed a height of ten feet, measured from the lower elevation, except existing retaining walls at the time of the passage of this title will be allowed a three-and-one-half-foot fence above the retaining wall.



H. Access Required. All new development shall have a minimum of twenty feet of lot frontage upon a public road or be served by an access easement at least twenty feet in width. The purpose of this standard is to provide for vehicular access to all new development; provided, the construction of single-family and two-family dwellings on existing legally established lots is exempt from the requirements of this section.

I. Recreational Screen. A recreational screen is a protective device for recreational purposes designed to keep recreational equipment within or outside of a designated area. Such uses are typically associated with schools, parks, golf courses, swimming pools, ballfields, and playgrounds. The specific standard for screen height in Table 5-1 does not apply to recreational screening as established by this title. The height and materials for screens will be evaluated by the administrative official based on the need, safety requirements, and relationship to residential and commercial properties and streets.

J. Sidewalk Requirement. Sidewalks on one side of the street are required with new construction (except single-family structures). A sidewalk is required if one exists within two hundred feet of the development on the same side of the street. Replacement of existing sidewalk is required only if existing sidewalk presents a safety hazard, except that for applications under the jurisdiction of the city of Yakima, the provisions of Title 12 of the Yakima Municipal Code shall prevail over the provisions of this section to the extent of any conflict between such provisions.

K. Swimming Pools. Swimming pools are permitted as an accessory use to: dwellings, hotels/motels, boardinghouses, retirement homes, other residential uses, schools, and recreational facilities when all of the following provisions are met:

1. Setbacks.
 - a. Front yard: The swimming pool, apron, and pump house meet the required front yard setback in Table 5-1.
 - b. Side and rear yard: The swimming pool and pump house are set back at least three feet from the property line. The swimming pool apron may extend up to the property line.
 - c. From an easement: The swimming pool, apron, and pump house may extend up to, but shall not encroach upon, an easement.
2. Fencing. The area around the pool is enclosed by a protective fence not less than four feet in height.

L. Development within the State Fair Park. The following structures may be developed, maintained, altered, expanded, or erected within the State Fair Park without further zoning review provided such development is

consistent with YMC 15.04.200(C), Allowable Uses, SEPA mitigation where required, the development standards of this code and other construction permit requirements:

1. Administrative and operational offices.
2. Auditoriums, meeting and exhibit halls.
3. Bars and drinking facilities.
4. Campgrounds.
5. Caretaker and/or employee residential quarters.
6. Equestrian facilities.
7. Exposition structures.
8. Grandstand facilities.
9. Libraries and museums.
10. Livestock barns.
11. Motorized sports facilities.
12. Parking facilities. (Ord. 2011-52 § 5, 2011: Ord. 2010-16 § 6, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 2005-81 § 4, 2005; Ord. 2001-13 § 48, 2001; Ord. 95-36 § 3, 1995; Ord. 93-81 §§ 23—25, 1993: Ord. 3106 §§ 11, 12, 1988; Ord. 3019 §§ 21—23, 1987; Ord. 2947 § 1 (part), 1986).

15.05.030 Creation of new lots—Subdivision requirements.

A. Table of Subdivision Requirements. The provisions of this section and the requirements set forth in Table 5-2 are hereby established for all subdivisions in the zoning districts indicated. In the case of conflict between the text and tables, the text shall govern. Additional subdivision requirements are established in YMC Title 14.

B. Maximum Number of Dwelling Units Permitted Per Net Residential Acre. Maximum number of dwelling units permitted per net residential acre is used to determine the maximum number of dwelling units permitted within a single subdivision, short subdivision, mobile home park, multifamily development, or planned residential development. This standard is intended to:

1. Assure that residential densities in new subdivisions, multifamily developments, or planned residential developments are compatible with the existing or planned level of public services and the density of the zoning district;
2. Permit the clustering of dwelling units (when clustering occurs, open space shall be provided in accordance with YMC 15.09.030); and
3. Permit a variety of residential dwelling types within a development.

The following formula shall be used to determine the maximum number of dwelling units permitted for any particular subdivision, short subdivision, mobile home park, multifamily development or planned residential development:

THE MAXIMUM NUMBER OF UNITS PERMITTED ON A SITE = (the total site area in acres) — (the area of streets, rights-of-way, and access easements, in acres) X (the maximum number of dwelling units permitted per net residential acre).

Any fraction of a dwelling unit shall be rounded up to the next whole number if one-half or over or down to the next whole number if less than one-half. Once approved under the provisions of this title, no subdivision,

resubdivision, or short subdivision shall be further modified or divided in a manner that will raise the density of the subdivision beyond the maximum number of dwelling units permitted per net residential acre by Table 5-2; provided, that development exceeding the maximum number of dwelling units per net residential acre may be allowed in the R-1 and R-2 districts as a Class (3) use in accordance with Table 4-1. This higher-density development shall be allowed only on those limited occasions when, after Class (3) review, the hearing examiner finds that the location and site plan of the project is such that the higher density would be compatible with neighboring land uses and the level of public services, and is consistent with the goals and objectives in the Yakima urban area comprehensive plan.

The application of this provision shall not prohibit the subdivision of land already developed with more dwelling units than would be permitted by this section when:

1. The lots created meet the lot size and lot width requirements established in Table 5-2;
2. The existing structures meet the building area and setback requirements in Table 5-1; and
3. No new dwelling units are built.

C. **Minimum Lot Size.** Minimum lot size is the smallest lot size permitted in a particular zoning district when land is subdivided, short platted, resubdivided, or when lot lines are adjusted. No lot shall be created that is smaller than the applicable minimum lot size standard established in Table 5-2.

1. In residential districts, this standard is intended to maintain the residential character of the area and will vary by dwelling type, the suitability of the land for development, and the type of water and sewer system. The following are the minimum lot size requirements in the residential districts, except when the Yakima health district determines that a larger area is necessary for the safe installation of approved water supply and sewage disposal systems:

Situation	Required Minimum Lot Size
In the floodplain, airport, and greenway overlay districts:	One acre (provided the minimum lot size of the underlying zoning district shall apply, when, in the opinion of the reviewing official, the lot has a buildable area outside the overlay district and a plat restriction prohibits development on that portion of the lot within the overlay district).
Individual water system and individual sewer system:	One-half acre.
Public or community water system and an individual sewer system:	14,500 square feet.
Individual water system and the regional or an approved community sewer system:	9,600 square feet.
Public or community water system and the regional or an approved community sewer system:	See Table 5-2.

2. The smaller lot size for zero lot line, attached, and multifamily dwellings does not permit an increase in the maximum number of dwelling units per net residential acre established in subsection B of this section. Any lots created for zero lot line, attached, and multifamily dwellings shall be so designated on the face of the plat or short plat.

3. In the local business district, the minimum lot size is intended to maintain the character of the district and provide adequate space for off-street parking and landscaping.

4. The minimum lot sizes in the small and large convenience center districts and industrial districts are intended to accommodate the large uses permitted in these districts and maintain vacant land in relatively large parcels that can be easily assembled when development is proposed.

D. Standard Lot Width. Standard lot width is the minimum lot width generally permitted in a particular zoning district. The intent of this standard is to prevent irregularly shaped lots along, and to control access to, rights-of-way.

E. Concurrent Subdivision and Zoning Review Required. Any application for a long subdivision which proposes a use or configuration of land or improvements requiring Class (2) or (3) review under this title shall, at or prior to the filing of such application, also file an application for such review under this title. Such application shall be heard by the hearing examiner concurrently with the subdivision application using the procedures for Class (3) review.

Table 5-1. Design Requirements and Standards

SITE DESIGN REQUIREMENTS AND STANDARDS			ZONING DISTRICTS												
			SR	R-1	R-2	R-3	HB	B-1	B-2	SCC	LCC	CBD	GC	AS	RD
DEVELOPMENT ON EXISTING LOTS OR PARCELS			See YMC 15.05.020 and 15.19.040												
LOT COVERAGE ¹			60%		80%			85%	90%	100%					
STANDARD STRUCTURE SETBACKS ⁶ (in feet)	FRONT	Arterials ²	60			40									
		Collector Arterials ²	50			30									
		Local Access ²	45												
		Private Road ²	37.50												
		Private Access Easement ³	10												
	SIDE	Arterials ²	50			40									
		Collector Arterials ²	40			30									
		Local Access ²													
		Private Road ²	32.50												
		Private Access Easement ³ , Alley, or Property Line ⁷	5	10		0									
		Residential District ⁴	5		20						30				
	REAR ⁶	Alley or Property Line	15			0									
		Residential District ⁴				15		20						30	
					or 1/2 building height, whichever is greatest										
MAXIMUM BUILDING HEIGHT (in feet)			35		50	35			50	N/A	50		N/A		
STANDARD FENCE HEIGHT ⁶			See YMC 15.05.020(G)												

STANDARD SCREEN HEIGHT	In Required Front Setbacks	Not Permitted
	Behind Required Front Setbacks	15

NOTES:

1. Landscaping may be required pursuant to YMC Ch. 15.06.
2. The setback is measured from the centerline of rights-of-way (or access easement, in the case of private roads). In the residential districts, the minimum front yard setback shall be twenty feet from the front property line and the minimum side yard setbacks shall be ten feet from the side property line abutting the right-of-way.
3. The setback is measured from the edge of the access easement.
4. Measured from abutting residential district.
5. Additional setbacks may be required to conform to sitescreening requirements in YMC Ch. 15.07.
6. The rear setback from arterials, collectors, and local access streets shall be the same as the front yard setback requirements from arterials, collectors, and local access streets, provided the required rear setbacks shall not be less than the required setbacks from the property line. (See also Note 3)
7. Zero lot line dwelling units are allowed a zero-foot setback from one side property line not abutting a right-of-way. (See YMC Ch. 15.09).

Table 5-2. Subdivision Requirements

Subdivision Requirements			Zoning Districts														
			SR	R-1	R-2	R-3	HB	B-1	B-2	SCC	LCC	CBD	GC	AS	RD	M-1	M-2
Maximum Number of Dwelling Units Permitted per Net Residential Acre			See YMC Ch. 15.04, Table 4-1														
Minimum Lot Size (in square feet) ⁽³⁾	Residential Uses See Definitions in YMC Ch. 15.02	Detached S.F. Dwelling	6,000		6,000 Where Permitted												Not Permitted
		S.F. Dwelling, Zero Lot Line ⁽⁴⁾	4,000	3,500													
		S.F. Dwelling, Common Wall															
		Two-Family Dwelling	8,000	7,000													

Subdivision Requirements		Zoning Districts													
		SR	R-1	R-2	R-3	HB	B-1	B-2	SCC	LCC	CBD	GC	AS	RD	M-1
	Multifamily Dwellings and PD— Residential	Density May Not Exceed Maximum Number of Dwelling Units Permitted per Net Residential Acre													
	Permitted Nonresidential Uses ⁽⁵⁾	10,000			5,000			10,000		None				1/2 Acre	
Standard Lot Width ⁽²⁾ (in feet)	ALL Except Common Wall Dwelling (Per Unit)	60	50			None						60			
	Common Wall Dwelling (Per Unit)		50	35		35 Where Permitted									

NOTES:

1. In the residential districts, these minimums apply when lots are served by a public or community water system and either the regional or approved community sewer system.
2. The lot width at the rear line of the required front yard shall not be less than fifty feet. (Note: this provision only applies to those districts with a minimum lot width of fifty feet or larger.)
3. One acre shall be the minimum lot size in residential districts within the floodplain and greenway overlays.
4. See special development standards for zero lot line development, YMC 15.09.040.
5. Lots created for utility purposes may be created below the minimum lot size listed in YMC Ch. 15.05, Table 5-2, as long as the lot is designated as “nonbuildable lot for utility purposes” on the face of the plat and the proposed lot is reviewed for compatibility. The lot must still meet the minimum lot width established in YMC Ch. 15.05, Table 5-2, and structures built on the lot must still meet the setback requirements in YMC Ch. 15.05, Table 5-1.

(Ord. 2012-34 §§ 3, 4, 2012; Ord. 2011-52 § 6, 2011; Ord. 2010-16 § 7, 2010; Ord. 2008-46 § 1 (part), 2008; Ord. 2001-04 § 5 (Att. A), 2001; Ord. 95-13 § 6, 1995; Ord. 3106 § 13, 1988; Ord. 3019 §§ 24, 25, 1987; Ord. 2947 § 1 (part), 1986).

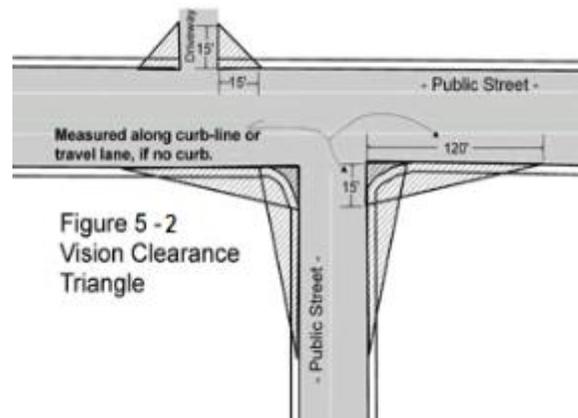
15.05.040 Vision clearance.

A. Intersections. All corner lots at unsignalized street intersections or railroads shall maintain, for safety vision purposes, a vision clearance triangle. The vision clearance triangle shall measure fifteen feet by one hundred twenty feet along the perpendicular lengths formed by three points including:

1. A point at the intersection of the extended curb lines or pavement edge/travel lanes;
2. A point measured one hundred twenty feet from the first point, forming a line along the adjacent perpendicular street curb line or pavement edge/travel lane; and
3. A point measured fifteen feet from the first point, forming a line.

Nothing within the vision clearance triangle shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between the heights of two and one-half and ten feet above the centerline of grades of intersecting streets (and/or railroads) or the future intersection centerline where improvements are planned with the six-year road improvement program, on file in the city engineering division. (See Figure 5-2.)

B. Driveway Curb Cuts or Alleys. This applies only to uses established under the terms of this title. A vision clearance triangle shall be maintained at all driveways, curbcuts, and intersections of an alley with a public street, for vision safety purposes. The vision clearance triangle shall measure fifteen feet along the perpendicular street curb lines, pavement edge, or travel lane of the public street and fifteen feet along the driveway or alley. The third side of the triangle shall be a straight line connecting the fifteen-foot sides described above. No sign or associated landscaping shall be placed within this triangle so as to materially impede vision between the heights of two and one-half and ten feet above the centerline grade of the streets.



(Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 26, 1993; Ord. 3106 § 14, 1988; Ord. 2947 § 1 (part), 1986).

15.05.050 Street right-of-way dedication.

All new development shall dedicate, where necessary, street right-of-way in conformance with the standards in the county/city subdivision ordinance and the arterial street plan adopted in the Yakima urban area comprehensive plan, except that for application under the jurisdiction of the city of Yakima, YMC Title 12 shall prevail over the provisions of this section to the extent of any conflict between such provisions. (Ord. 2008-46 § 1 (part), 2008: Ord. 2001-13 § 49, 2001: Ord. 2947 § 1 (part), 1986).

15.05.055 New development improvement standards.

All development within the Yakima urban growth area (UGA) must meet the urban standards of the city of Yakima including the following.

1. Fire apparatus access roads for multiple-family residential developments and one- or two-family residential developments shall be subject to the provisions of Sections D106 and D107, respectively, of Appendix D of the International Fire Code (2009 Edition). Additionally, such residential developments shall be subject to the requirements of Section D105 of Appendix D, International Fire Code (2009 Edition), pertaining to aerial fire apparatus roads, as applicable. All provisions of the International Fire Code referenced above are

hereby adopted and incorporated herein by this reference, as now existing or as hereafter amended and adopted by the city. Minimum requirements for the primary and secondary access will be at least twenty feet wide, unobstructed, paved lanes.

2. In order to promote safety for emergency access and circulation within and between new developments, cul-de-sac streets (public or private) shall not exceed 600 feet. (Ord. 2012-34 § 5, 2012: Ord. 2008-46 § 1 (part), 2008).

15.05.060 Administrative adjustment of certain basic development standards allowed.

Administrative adjustment of some of the basic development standards in this chapter are authorized under the zero lot line provisions of YMC Chapter 15.09 and 15.10. Except as allowed by those provisions, no reduction of these standards is permitted except pursuant to YMC Chapter 15.21. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.06

OFF-STREET PARKING AND LOADING

Sections:

- 15.06.010 Purpose.
- 15.06.020 Off-street parking and loading spaces required.
- 15.06.030 General provisions.
- 15.06.040 Off-street parking standards.
- 15.06.050 Computation of required spaces.
- 15.06.060 Location of required spaces.
- 15.06.065 Driveway locations.
- 15.06.070 Schedule of minimum parking dimensions.
- 15.06.080 Site plan required.
- 15.06.090 Required landscaping of parking areas.
- 15.06.100 Lighting of parking lots.
- 15.06.110 Construction and maintenance.
- 15.06.120 Time of completion.
- 15.06.130 Off-street loading space required.
- 15.06.140 Nonconforming parking.

15.06.010 Purpose.

The following parking standards are intended to establish adequate off-street parking, reduce on-street parking, increase traffic safety, maintain smooth traffic flow, and reduce the visual impact of parking lots. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.06.020 Off-street parking and loading spaces required.

No off-street parking or loading spaces shall be placed, constructed, located, relocated or modified after adoption of this title without first receiving a development permit from the administrative official. All vehicle storage, off-street parking and loading spaces that are not a principal use are accessory uses and shall be subject to the same procedures and review requirements as the principal use. All off-street parking and vehicle storage spaces shall be provided in conformance with the provisions of this chapter. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 27, 1993: Ord. 2947 § 1 (part), 1986).

15.06.030 General provisions.

- A. The off-street parking and loading facilities required by this chapter shall be established prior to any change in the use of land or structures and/or prior to the occupancy of any new or enlarged structure.
- B. Required off-street parking spaces shall provide vehicle parking only for residents, customers, patrons, and employees. Required parking shall not be used for the storage of vehicles or materials; the parking of company or business vehicles used in conducting the business; or for the sale, repair or servicing of any vehicle.
- C. Any area once designated for required off-street parking shall not be used for any other purpose unless and until equal facilities are provided elsewhere and a site plan has been approved to reflect the change, or the primary use of the property is changed to a use requiring less off-street parking.
- D. The required front yard in the R-3 district shall not be used for off-street parking for four or more cars unless the three-foot strip nearest the front property line is landscaped and a two-foot-high concrete, masonry, or decorative block wall, wood fence, or solid landscaping screen is provided. (For corner lots see YMC 15.05.040.)
- E. A parking circulation plan is required for parking lots and the associated vehicular travel ways for multifamily and nonresidential uses that have five or more required off-street parking spaces. The required off-street parking shall be designed in a manner that eliminates a need for backing and maneuvering from or onto streets, sidewalks, pedestrian ways, or bikeways in order to exit a property or maneuver out of parking spaces. Furthermore, the parking lot and associated travel ways shall be designed in a manner that provides for safe and adequate traffic flow.

1. Loading spaces and truck maneuvering areas shall be included in the parking circulation plan.
2. Drive-through lanes and related facilities shall be clearly shown on the parking circulation plan.
3. Driveway locations and specifications shall be shown on the parking circulation plan and are subject to review for safety and traffic flow. The location of the driveways shall conform to YMC 15.06.065.
4. The parking circulation plan is a site plan requirement. Recommendations regarding adequate circulation may be received from the traffic engineering staff, city engineering staff, fire department, and other reviewing agencies. Additional mitigation or redesign may be required if the proposed circulation pattern creates safety conflicts. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.06.040 Off-street parking standards.

A. Table of Required Off-Street Parking. The parking standards in Table 6-1, Table of Off-Street Parking Standards, are established as the parking standards for the uses indicated. These parking requirements are based on gross floor area. "Gross floor area" means the total square footage of all floors in a structure as measured from the interior surface of each exterior wall of the structure and including halls, lobbies, enclosed porches and fully enclosed recreation areas and balconies, but excluding stairways, elevator shafts, attic space, mechanical rooms, restrooms, uncovered steps and fire escapes, private garages, carports and off-street parking and loading spaces. Storage areas are included in gross floor area. However, the required off-street parking for storage areas shall be calculated at the rate of one space per five hundred square feet rather than the specific parking standard established in Table 6-1; except, when the parking standard for the principal use would require fewer parking spaces (i.e., one space per six hundred square feet.) All required off-street parking shall be subject to the procedures of this title and the standards of this section.

B. Uses Not Specified. Off-street parking requirements for uses not specifically listed in Table 6-1 shall be determined by the reviewing official based upon the requirement for similar uses.

C. Downtown Business District Exempt. The downtown business district of Yakima, as shown in Figure 6-1 and hereby adopted as a part of this chapter, shall be exempt from the provisions of this chapter as they relate to the number of parking spaces required, except that this exemption shall not apply to property that is used for residential purposes; and further provided, that all the other requirements of this chapter shall apply to any parking provided by the applicant.

LAND USE	PARKING STANDARDS
Bowling alleys	5 spaces for each lane
Gymnasiums, exercise facilities	1 space for each 200 sq. ft. of gross floor area
Parks (public or private)	10 spaces per acre for passive recreation; 20 spaces per field for active recreation
Roller and/or ice skating rink	1 space for each 150 sq. ft. of skating surface area
Swimming pools	1 space for each 50 sq. ft. of water surface area
Movie theatres	1 space for each 4 seats
Golf courses	5 spaces per green and 1 space per 300 sq. ft. of gross floor area
Golf driving ranges	1 space per tee or 1 space per 15 feet of driving line, whichever is greatest
Auditoriums, exhibition halls, community centers, fraternal organization	1 space for each 100 sq. ft. of gross floor area
COMMUNITY SERVICES	
Churches, synagogues, temples, and funeral homes	1 space for each 3 fixed seats (or 54" of bench-type seating) 1 space for each 40 sq. ft. of general reception/gathering area
Community gardens* (accessory to an approved principal use) (See YMC 15.04.060(G))	None
Community gardens* (with planting area of 0.25 acres or less)	None
Community gardens* (with planting area of more than 0.25 acres and up to 0.5 acres)	2 spaces
Community gardens* (with planting area of more than 0.5 acres up to 1 acre)	4 spaces
Convalescent, nursing and group homes	1 space for each 2 beds
Fire and police stations	1 space for each 200 sq. ft. of gross floor area
Halfway houses (detention centers)	1 space for each 2 beds
Hospitals	1.5 spaces for each bed
Schools:	
Primary, Elementary	3 spaces for each classroom, or 1 space for each 3 seats (54" bench-type seating) in the assembly area, whichever is greater
Junior, Senior	Same as Primary/Elementary and 1 space for each 4 students over 16 years old
Junior or community colleges	1 space for each 400 sq. ft. of gross floor area
Juvenile detention centers	1.5 spaces for each bed
Libraries	1 space for each 100 sq. ft. of gross floor area
Museums, art galleries	1 space for each 100 sq. ft. of gross floor area
Preschools, daycare centers	1 space for each employee plus 1 space for each 6 children
Vocational and business schools	1 space for each 400 sq. ft. of gross floor area
MANUFACTURING (MASS PRODUCTION)	
All uses listed under manufacturing in Table 4-1	1 space for each employee per maximum shift
RESIDENTIAL	

LAND USE	PARKING STANDARDS
Accessory dwelling units	1 space
Single-family dwelling	2 spaces
Two-family dwellings	4 spaces
Multifamily dwellings 10 units or less More than 10 units	2 spaces per dwelling 1.5 spaces per dwelling
Retirement homes	1 space for each dwelling unit
RETAIL TRADE AND SERVICES	
Addressing, mailing, and stenographic services	1 space for each 300 sq. ft. of gross floor area
Advertising agencies	1 space for each 300 sq. ft. of gross floor area
Automobile and truck, manufactured homes, travel trailer sales	1 space for each 500 sq. ft. of showroom and 1 space for each 1,000 sq. ft. of retail sales floor area
Automotive: Automobile maintenance and service shops Car wash Car wash, self-service Paint and body repair Specialized repair shops (battery, radiator, etc.)	2 spaces per service area including work bays 6 spaces per wash bay 1 space for each 1,000 sq. ft. of gross floor area 2 spaces per service area including work bays 2 spaces per service area including work bays
Wrecking and dismantling yards	1 space for each 500 sq. ft. of gross floor area
Beauty and barber shops	1 space for each 75 sq. ft. of gross floor area
Bed and breakfast inns	1.1 spaces for each guest room
Building and contractors	1 space for each 800 sq. ft. of gross floor area
Coffee restaurant/stand with or without drive-through	1 space for each 50 sq. ft. of public seating area, including outside seating and 1 space for each employee
Drug stores	1 space for each 200 sq. ft. of gross floor area
Employment agencies (private)	1 space for each 200 sq. ft. of gross floor area
Espresso/coffee stand with or without drive-through	1 space for each 50 sq. ft. of gross floor area, including outside seating, and one space for each employee
Farm supplies	1 space for each 800 sq. ft. of gross floor area
Florists	1 space for each 500 sq. ft. of gross floor area
Financial institutions	1 space for each 200 sq. ft. of gross floor area
Furniture, home furnishings, appliances	1 space for each 800 sq. ft. of gross floor area
Gas stations	1 space for each 300 sq. ft. of gross floor area
Hardware stores	1 space for each 300 sq. ft. of G.F.A. of structure and permanent outside display sales area
Heating and plumbing equipment stores	1 space for each 400 sq. ft. of gross floor area
Heavy equipment, tractor, and farm equipment repair	1 space for each 300 sq. ft. of gross floor area

LAND USE	PARKING STANDARDS
Home occupations	See YMC 15.04.120(E)(+J)
Household appliance, small engine, TV and furniture repair	1 space for each 300 sq. ft. of gross floor area
Insurance agents, brokers and service agencies	1 space for each 200 sq. ft. of gross floor area
Liquor stores	1 space for each 300 sq. ft. of gross floor area
Lumber yards	1 space for each 800 sq. ft. of gross floor area of structure and covered storage area
Nurseries	1 space for each 400 sq. ft. of G.F.A. of structure and permanent outside display and sales area
Medical and dental laboratories, offices, and clinics	1 space for each 200 sq. ft. of gross floor area
Motels and hotels	1.2 spaces for each guest room
Multiple use centers (3 or more uses with shared parking) —having less than 25,000 sq. ft. of gross floor area —having 25,001—400,000 sq. ft. of gross floor area —having 400,001—600,000 sq. ft. of gross floor area —having 600,001+ sq. ft. of gross floor area	1 space for each 300 sq. ft. of gross floor area 4 spaces for each 1,500 sq. ft. of gross floor area 5 spaces for each 2,250 sq. ft. of gross floor area 6 spaces for each 2,750 sq. ft. of gross floor area
Paint, glass, and wallpaper stores	1 space for each 400 sq. ft. of gross floor area
Professional office building for use by accountants, attorneys, etc.	1 space for each 200 sq. ft. of gross floor area
Radio and TV studios, offices	1 space for each 300 sq. ft. of gross floor area
Real estate offices	1 space for each 200 sq. ft. of gross floor area
Residential mini-storage	1 space for each 300 sq. ft. of gross floor area of office space
Restaurant, cafe, and drive-in eating facilities	1 space for each 50 sq. ft. of indoor public floor area, and 1 space for each 200 sq. ft. of outdoor public eating area
Retail service establishments in Table 4-1 but not listed in this table	1 space for each 300 sq. ft. of gross floor area
Retail trade establishments in Table 4-1 but not listed in this table —less than 25,000 sq. ft. of gross floor area —25,001—400,000 sq. ft. of gross floor area —400,001—600,000 sq. ft. of gross floor area —600,001+ sq. ft. of gross floor area	1 space for each 300 sq. ft. of gross floor area 4 spaces for each 1,500 sq. ft. of gross floor area 5 spaces for each 2,250 sq. ft. of gross floor area 6 spaces for each 2,750 sq. ft. of gross floor area
Service stations	2 spaces for working/service area, including bays
Shoe repair and shoe shops	1 space for each 300 sq. ft. of gross floor area
Taverns and bars, dine, drink, and dance establishments	1 space for each 75 sq. ft. of gross floor area
Waste material processing and junk handling	1 space for each 500 sq. ft. of gross floor area
TRANSPORTATION	
Bus terminals, storage and maintenance facilities	1 space for each 300 sq. ft. of gross floor area
Air, rail and truck terminals	1 space for each 300 sq. ft. of gross floor area

LAND USE	PARKING STANDARDS
Taxicab terminals, maintenance and dispatching centers	1 space for each 300 sq. ft. of gross floor area
UTILITIES	
Utility services	1 space for each 800 sq. ft. of gross floor area
WHOLESALE TRADE	
Wholesale trade warehouses	1 space for each employee based on the maximum working at any given shift; or 1 space for each 300 square feet of gross floor area for packing and processing areas; 2 spaces for the first 1,000 sq. ft. of gross floor area, plus 1 space for each additional 5,000 sq. ft. for CA storage, warehouse, and refrigeration areas; whichever is deemed more appropriate by the reviewing official
Residential mini-storage	See residential mini-storage under retail and service category
<p>How to Use Table 6-1:</p> <ol style="list-style-type: none"> Calculate the gross floor area for the structure. (See YMC 15.06.040 to determine gross floor area.) Determine the amount of gross floor area used for storage rooms. Required off-street parking for storage is one space per 500 square feet. Find the proposed use in Table 6-1. <p>Example:</p> <p>— The gross floor area of the structure is 3,000 sq. ft. 1,000 sq. ft. of the structure is used for storage. The parking standard for storage rooms is one space per 500 sq. ft. (YMC 15.06.040). $1,000 \div 500 = 2$ off-street parking spaces for the storage area.</p> <p>— The proposed use is a shoe shop. According to Table 6-1, shoe shops require one off-street parking space for each 300 sq. ft. of gross floor area. $2,000 \div 300 = 6.6$ or seven spaces, since fractions of parking spaces are rounded up (YMC 15.06.050(A)).</p> <p>— The total required off-street parking of this use is: 2 spaces (for storage area) + 7 spaces (for the rest of the gross area) = 9 spaces.</p>	

(Ord. 2014-030 § 5, 2014; Ord. 2011-52 § 7, 2011; Ord. 2010-16 § 7, 2010; Ord. 2008-46 § 1 (part), 2008; Ord. 2001-22 §§ 1—3, 2001; Ord. 2001-14 §§ 1—3, 2001; Ord. 95-36 § 4, 1995; Ord. 93-81 § 28, 1993; Ord. 3106 § 15, 1988; Ord. 3019 § 27, 1987; Ord. 2947 § 1 (part), 1986).

15.06.050 Computation of required spaces.

The following rules shall apply in the determination of the number of required off-street parking spaces:

- A. **Fraction.** If the number of off-street parking spaces required in Table 6-1 contains a fraction, such number shall be changed to the next higher whole number.
- B. **Mixed Uses.** When different uses occupy a single structure or lot, the total required parking spaces shall be the sum of the requirements of the individual uses.
- C. **Shared Uses.**
 1. Owners of two or more uses, structures, or parcels of land within three hundred feet of each other may share the same parking or loading areas when the hours of operation do not overlap.
 2. The owners of two or more uses, structures, or parcels within three hundred feet of each other may also share facilities concurrently; however, the total parking requirements shall be the sum of the requirements for each individual use.
 3. Whenever shared parking is allowed under this section, the parking lot shall be signed so as to reasonably notify the public of the availability of use, and spaces shall not be assigned, allocated, or reserved between uses. (Also see YMC 15.06.060.)

4. A parking easement approved by the administrative official shall be filed with the county auditor whenever two or more uses propose to share off-street parking facilities.

D. Tandem Parking. Parking spaces in tandem, having a single means of ingress and egress, shall not be counted as two off-street parking spaces for the purpose of fulfilling the requirements of this chapter; except that each tandem space for single-family dwellings and duplexes shall be counted as a required parking space.

E. Compact Car Parking. For parking areas with twenty or more required parking spaces, up to fifteen percent of the required number of off-street parking spaces may be designed for compact car parking. Compact spaces shall be no less than eight feet by seventeen feet and each space must be labeled individually with a durable pavement marking "Compact." (Ord. 2012-34 § 2, 2012; Ord. 2008-46 § 1 (part), 2008; Ord. 93-81 § 29, 1993; Ord. 3019 § 28, 1987; Ord. 2947 § 1 (part), 1986).

15.06.060 Location of required spaces.

Off-street parking facilities shall be located according to the following:

A. For single-family and two-family dwellings, parking facilities shall be located on the same lot or building site as the buildings they are required to serve.

B. For hospitals and convalescent, nursing or rest homes, parking facilities shall be located not more than one hundred fifty feet from the buildings they are required to serve unless they are part of an approved master plan or campus plan.

C. For uses other than those specified above, parking facilities shall not be located over three hundred feet from the buildings they are required to serve unless they are part of an approved master plan or campus plan.

D. Groups of three or more parking spaces shall be served by a driveway so that no vehicular backing/maneuvering movement will occur within a public right-of-way other than an alley.

E. No parking lot or driveway serving a nonresidential use in a commercial or industrial district shall be located in a residential zoning district. (Ord. 2008-46 § 1 (part), 2008; Ord. 2947 § 1 (part), 1986).

15.06.065 Driveway locations.

All proposed or modified driveway approaches shall be shown on a general or detailed site plan. The driveway locations shall conform to the following standards:

A. No driveway approach shall be so located as to create a hazard to pedestrians or motorists, or invite or compel illegal or unsafe traffic movements;

B. No driveway approach on a local access street may be located closer to the street intersection corner than thirty feet as measured from the property line at the corner;

C. No driveway access to an arterial street shall be located within seventy-five feet (measured along the arterial) of any other such arterial street access on the same side of the street;

D. No driveway access shall be allowed to an arterial street within seventy-five feet of the nearest right-of-way line of an unsignalized street intersection;

E. Internal driveways shall be paved and be a minimum of twelve feet wide for one-way travel and twenty feet wide for two-way travel, or wider if required by the International Fire Code;

F. Driveway access shall be limited in the vicinity of a signalized street intersection. No driveway shall be permitted within one hundred feet of a signalized intersection, as measured from the right-of-way line. Any driveway within two hundred feet of the right-of-way line of the intersection shall be restricted to right turns only;

G. The construction of new driveway approaches from a public street or a modification of an existing driveway approach requires a construction permit pursuant to YMC Chapter 8.64 for the specifications of the driveway approach;

H. Adjustments from this section may be approved if the modification is reasonable and necessary, and does not create an unsafe condition for motorists or pedestrians; and

I. Existing driveways in violation of these standards at the time of adoption will not be deemed nonconforming, but redevelopment of the property requires any new or modified driveway to be consistent with these standards. (Ord. 2010-16 § 8, 2010: Ord. 2008-46 § 1 (part), 2008).

15.06.070 Schedule of minimum parking dimensions.

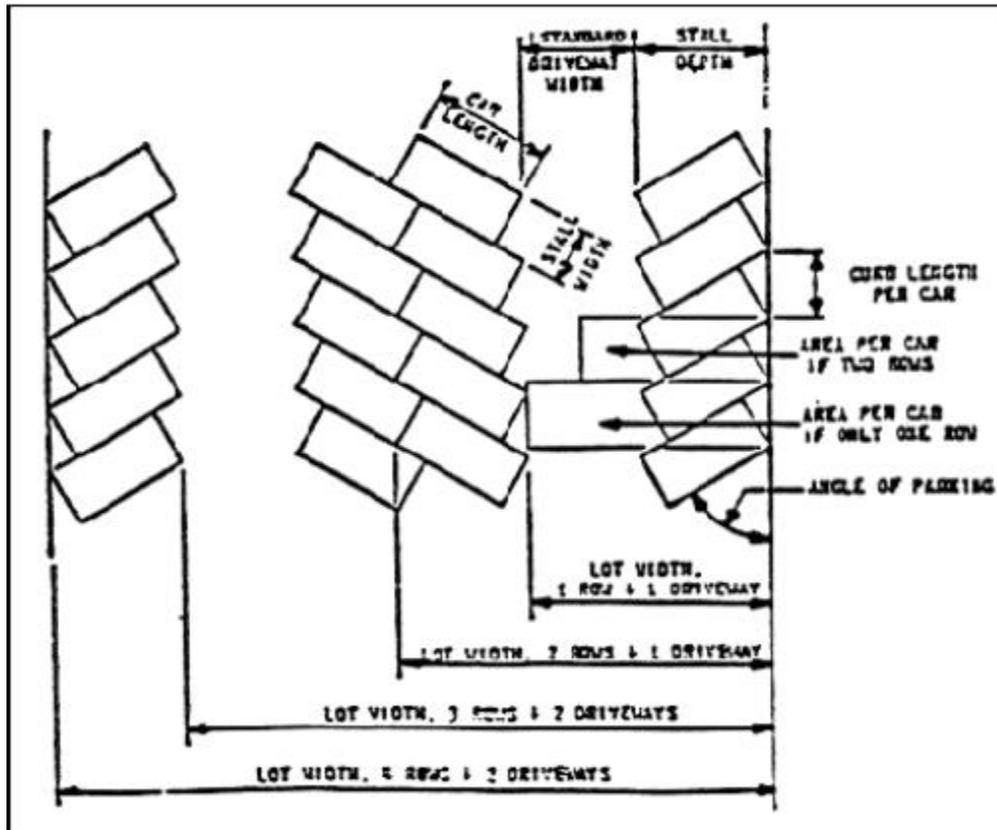
Driveways and parking stalls shall conform to Table 6-2, which is hereby adopted as the schedule of minimum parking dimensions. (Refer to diagram below. All dimensions are based on a basic nine-foot-by-nineteen-foot stall.)

Table 6-2. Standard Parking Lot Dimensions

PARKING ANGLE ALONG CURB	STALL WIDTH	CURB LENGTH PER CAR	STALL DEPTH	MINIMUM DRIVEWAY WIDTH	LOT WIDTH: 1 ROW + 1 DRIVEWAY PER CAR	SQ . FT.	LOT WIDTH: 2 ROWS + 1 DRIVEWAY PER CAR	SQ . FT.	LOT WIDTH: 3 ROWS + 2 DRIVEWAYS PER CAR	SQ . FT.	LOT WIDTH: 4 ROWS + 2 DRIVEWAYS PER CAR	SQ . FT.
0°	8'	23'	8'	12'	20'	460	28'	322	48'	368	56'	322
30°	9'	18'	17'3"	11'	28'4"	510	45'6"	411	66'2"	397	83'6"	376
45°	9'	12'7"	19'8"	13'	32'10"	420	52'5"	336	79'0"	376	98'10"	315
60°	9'	10'4"	21'0"	18'	39'0"	407	60'	313	95'0"	330	116'0"	305
90°	9'	9'	19'	24'	43'	387	62'	279	105'	315	124'	279

1. Ninety-degree parking permits two-way driveway travel. If the angle is less than ninety degrees driveway travel shall be one-way.

Figure 6-2



(Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 29, 1987; Ord. 2947 § 1 (part), 1986).

15.06.080 Site plan required.

A site plan for every new or enlarged off-street parking lot or motor vehicle sales area shall be approved by the administrative official prior to construction. The site plan shall comply with the provisions for general or detailed site plans in YMC 15.11.040-030 and 15.11.050-040 and shall also show the proposed development, locations, size, shape and design of the parking spaces, parking circulation plan, curb cuts, lighting, landscaping, irrigation and other features of the proposed parking lot. ~~The site plan shall be filed under the provisions of YMC 15.11.030.~~ (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.06.090 Required landscaping of parking areas.

- A. The standard for landscaping of parking and vehicle storage lots with five or more spaces shall be ten percent of the total parking area. This landscaping area may be included to satisfy the lot coverage (impermeable surface) requirements of Table 5-1.
- B. The planting area standard, where required, shall be a minimum of twenty-four square feet with the exception of raised planter boxes around buildings.
- C. A standard of one tree from an approved list shall be planted for every fifteen single-row parking stalls or every thirty double-row parking stalls within the parking lot.
- D. Landscaping may consist of a combination of trees, shrubs, and groundcover with careful consideration to eventual size and spread, susceptibility to disease and pests, durability, and adaptability to existing soil and climatic conditions.
- E. Landscaping shall be located within the parking area, such as in-between parking spaces or in parking "islands," or around the perimeter of the parking lot.

F. Every parking area that abuts property in any residential district shall be separated from such property by a solid wall, view-obscuring fence, landscaped berm, or compact evergreen hedge at least six feet in height. The administrative official may increase the height, depth, and content of said screening as necessary to adequately protect adjacent single-family residential development. The screening shall be provided and maintained along the property line of such lot. (Ord. 2010-16 § 9, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 30, 1993; Ord. 2947 § 1 (part), 1986).

15.06.100 Lighting of parking lots.

Lighting shall be provided to illuminate any off-street parking or loading space used at night. When provided, lighting shall be directed to reflect away from adjacent and abutting properties. Parking lots adjacent to residential districts or uses shall be designed with down-shielding and luminaries creating no lighting pollution upon those properties. A photometric lighting plan may be required if the parking lot is located adjacent to or abutting residential properties. Further requirements and restrictions are required when the property is located within the airport safety overlay. (See YMC Chapter 15.30.) (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.06.110 Construction and maintenance.

All off-street parking lots, driveways, travel ways, parking aisles, vehicle storage, and vehicle sales lots having a capacity of three or more vehicles shall be constructed in the following manner:

A. Surfacing. Paved with two-inch-thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the administrative official, so as to eliminate dust or mud. Pervious asphalt or concrete materials are encouraged.

B. Grading and Drainage. Graded and drained so all surface water is disposed of on-site. Grading and drainage facilities shall be designed according to accepted engineering standards and the Eastern Washington Stormwater Manual, which will require review by the city engineer or a designee.

C. Border Barricades. Any parking, vehicle storage, or motor vehicle sales area abutting the street property line shall provide a concrete curb at least six inches in height and located at least two feet from the street property line. The curb shall be securely anchored. No curb shall be required across any driveway or entrance to the parking area, or if the parking lot is separated from the street by a fence or hedge.

D. Markings. All parking spaces (except motor vehicles sales areas) shall be marked by durable painted lines at least four inches wide and extending the length of the stall or by curbs or other means approved by the administrative official to indicate individual parking stalls. Signs or markers located on the parking lot surface shall be used as necessary to ensure safe and efficient use of the parking lot. In addition, when required, all accessible parking spaces shall be marked and signed in compliance with the currently adopted International Building Code.

The owner or lessee of a required parking area shall maintain the paved surface, drainage facilities, landscaping, and irrigation facilities in conformance with the standards of this chapter and the approved site plan. (Ord. 2010-16 § 10, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 31, 1993: Ord. 2947 § 1 (part), 1986).

15.06.120 Time of completion.

All parking required by this title shall be installed prior to occupancy or commencement of use. Where compliance with this requirement is not possible, the administrative official may grant an appropriate delay under the provisions of YMC 15.12.070(D). (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.06.130 Off-street loading space required.

Off-street loading and unloading spaces shall be required for any use requiring frequent loading or unloading from trucks or other large vehicles. (See YMC 15.06.030.)

A. Loading Space Size. The required loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loading or unloading at the structure. Each off-street loading space shall have the minimum dimensions of twelve feet in width and twenty-five feet in length. On-site maneuvering space of not less than fifty-two feet in length shall be provided adjacent to the loading dock. This maneuvering space shall not include any area designated for off-street parking.

B. Loading Space Location. Required off-street loading and related maneuvering space shall be located only on or abutting the property served. No part of any vehicle using the loading space shall project into the right-of-way of any public or private road. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.06.140 Nonconforming parking.

A. Any use which, on the effective date of the ordinance codified in this section or any amendments hereto, is nonconforming in terms of required off-street parking facilities may continue in the same manner as if they were conforming; however, the number of existing off-street parking spaces shall not be reduced.

B. When an existing structure with nonconforming parking is expanded and additional parking is required, the additional parking spaces shall be provided in accordance with the provisions of this chapter; however, the number of additional spaces shall be computed only to the extent of the enlargement, regardless of whether or not the number of previously existing spaces satisfies the requirements of this chapter.

C. When the use of an existing lot or structure with nonconforming parking is changed to another use listed in Table 4-1, the nonconformity shall cease and the new use shall provide all the required off-street parking in accordance with the provisions of this chapter. However, this requirement may be waived by the administrative official for existing buildings and/or lots within the CBD or GC zoning districts, containing insufficient area to provide parking, provided the following factors are taken into consideration:

1. New use has similar parking requirements to the previously approved use;
2. The availability of on-street parking;
3. The availability of nearby off-street parking or other opportunities to conform to the parking standard, such as a shared parking agreement; and
4. Location of the business in proximity to the downtown business district exempt area (YMC 15.06.040(C)). (Ord. 2010-16 § 11, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.07

SITESCREENING

Sections:

- 15.07.010 Purpose.
- 15.07.020 SITESCREENING required.
- 15.07.030 Determination of sitescreening requirements.
- 15.07.040 SITESCREENING standards.
- 15.07.050 Table of required sitescreening standards.
- 15.07.060 SITESCREENING along streets.
- 15.07.070 Location.
- 15.07.080 Existing plant material.
- 15.07.090 Preparation of a sitescreening plan.
- 15.07.100 Time of completion.
- 15.07.110 Retention and maintenance.

15.07.010 Purpose.

The purpose of this chapter is to: establish sitescreening standards to provide a visual buffer between uses of different intensity, streets and structures; reduce erosion and stormwater runoff; protect property values; and eliminate potential land use conflicts by mitigating adverse impacts from dust, odor, litter, noise, glare, lights, signs, water runoff, buildings or parking areas. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.020 SITESCREENING required.

SITESCREENING shall be required along the property lines in accordance with the provisions of this chapter whenever any use, development, or modification to use or development is being reviewed under this title; provided, the construction of single-family residences or duplexes not part of a larger development is exempt from this chapter unless the site abuts a commercial zoned district. No sitescreening is required along a property line shared with a vacant parcel, except where a nonresidential use is developed upon a vacant parcel in the SR or R-1 zone. The provisions of this chapter also apply to the approval of any residential subdivisions and planned residential development. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.030 Determination of sitescreening requirements.

The administrative official may adjust the sitescreening standards in this chapter by approving other sitescreening plans pursuant to the provisions of YMC 15.10.020 and 15.10.030040. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.040 SITESCREENING standards.

A. SITESCREENING requirements vary depending on the intensity of both the proposed use and abutting properties. Three different standards, A, B and C, are hereby established to accommodate the range of sitescreening needs.

STANDARD A—A ten-foot-wide landscaped planting strip with trees at twenty-foot to thirty-foot centers, which includes shrubs and groundcover.

STANDARD B—A three-foot-wide planting strip that will create a living evergreen screen that is at least six feet in height within three years.

STANDARD C—A six-foot-high, view-obscuring fence, made of wood, masonry block, concrete, or slatted chain link material. A three-foot-wide planting strip landscaped with a combination of trees, shrubs and groundcover along the outside of the fence is also required when the fence is adjacent to a street, alley or pedestrian way.

B. Provisions A, B and C are standards for the size of sitescreening area and the density and type of landscaping/planting. The developer may substitute a higher sitescreening standard, with standard C being higher than B, and B being higher than A.

C. Other sitescreeing plans that improve the site design and achieve the purpose of this section may also be approved by the administrative official in accordance with YMC Chapter 15.10. All sitescreeing shall also conform to the provisions of YMC Chapter 15.05. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.050 Table of required sitescreeing standards.

Table 7-1 is hereby adopted as part of this chapter. The letter designation in this table refers to the sitescreeing standards in YMC 15.07.040.

Table 7-1 Required Sitscreeing Between Uses and Development

Lowest Intensity Zoning District in which the PROPOSED LAND USE is a Class (1) Use	Lowest Intensity District in which ADJACENT USE is a Class (1) Use													
	LOWER ZONING DISTRICT INTENSITY HIGHER													
	SR	R-1	R-2	R-3	B-1	B-2	SCC	LCC	AS	GC	CBD	RD	M-1	M-2
SR			A		A	C	C	C	C	C	C	C	C	C
R-1			B	C	C	C	C	C	C	C	C	C	C	C
R-2	A	B		C	B	C	C	C	C	C	C	C	C	C
R-3	A	A	A		A	B	C	C	C	C	C	C	C	C
B-1	A	B	B	A									B	B
B-2	C	C	C	B									B	B
SCC	C	C	C	C									B	B
LCC	C	C	C	C									A	B
AS	C	C	C	C										
GC	C	C	C	C									A	B
CBD	C	C	C	C									A	B
RD	C	C	C	C									C	C
M-1	C	C	C	C	B	B	B	A		A	A	C		
M-2	C	C	C	C	B	B	B	B		B	B	C		

HOW TO USE TABLE 7-1: An empty space means sitescreeing is generally not required. A, B, or C—Letters refer to the sitescreeing standards in YMC 15.07.040.

EXAMPLE: Proposed Use: Residential Mini-Storage

1. Refer to Table 4-1 to find the lowest intensity zoning district in which the proposed use is permitted as a Class (1) use. For residential mini-storage this is M-1. Find this zoning district in Column 1 above.
2. Refer to Table 4-1 to find the lowest intensity zoning district in which each adjoining use is permitted as a Class (1) use. If adjoining use is not a Class (1) use in any district sitescreeing, standard C is the required sitescreeing standard along that property line.

Adjoining Uses:

North—Single-family dwellings—Lowest Intensity District Class (1) Use = SR

South—Tavern—Lowest Intensity District Class (1) Use = LCC

East—Employment Agency—Lowest Intensity District Class (1) Use = B-2

West—Vacant

3. Use Table 7-1 to find the recommended sitescreening to be provided by proposed use. The recommended level of sitescreening is the letter in the intersection of the district found in Step 1 with each district noted in Step 2. (In this example: SR = C; LCC = A; B-2 = B; Vacant = none. Refer to specific sitescreening standards in YMC 15.07.040. Prepare sitescreening plan. See YMC 15.07.040.)

(Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 30, 1987; Ord. 2947 § 1 (part), 1986).

15.07.060 Sitescreening along streets.

Sitescreening standard A shall apply wherever sitescreening is required under Table 7-1 and the adjoining land use is separated from the proposed use or development by a collector or local access street. The administrative official may also require sitescreening standard A along an arterial when such action is consistent with the purpose of this chapter. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.070 Location.

Generally, all required sitescreening shall:

1. Be located on the perimeter of a lot or parcel upon which the development occurs;
2. Extend from lot line to lot line;
3. Adhere to applicable setback standards of YMC Chapter 15.05; and
4. Not be located on any portion of a public or private street, dedicated right-of-way or vision clearance triangle. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.080 Existing plant material.

Existing trees and other vegetation may be used for sitescreening if they are healthy and will satisfy the purpose of this section. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.090 Preparation of a sitescreening plan.

The administrative official may require a sitescreening plan showing the approximate location, height, size and type of all plantings and fences whenever sitescreening is required. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 31, 1987; Ord. 2947 § 1 (part), 1986).

15.07.100 Time of completion.

All sitescreening required by this title shall be installed prior to occupancy or commencement of use. Where compliance with this requirement is not possible because of seasonal planting limitations, the administrative official shall grant an appropriate delay. However, no permanent certificate of occupancy shall be issued until all required sitescreening is completed. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.07.110 Retention and maintenance.

All sitescreening shall be maintained in accordance with the purpose and intent of this chapter. It is the property owner's obligation and responsibility to maintain the sitescreening approved. In the event the sitescreening deteriorates or is not maintained in a condition consistent with plan approval, the appropriate jurisdiction may at its option cause necessary maintenance to be performed and assess the costs thereof to the property owner. These costs shall constitute a lien on the property from the date of filing a notice of lien in the office of the county auditor. The lien shall state the legal description of the property and the amount of costs assessed. Such lien may be foreclosed by the appropriate jurisdiction in the manner provided by law for the foreclosure of mortgages. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 32, 1987: Ord. 2947 § 1 (part), 1986).

Chapter 15.08

SIGNS

Sections:

- 15.08.010 Purpose.
- 15.08.020 Definitions.
- 15.08.030 Development permit required.
- 15.08.040 Nonregulated signs.
- 15.08.045 Fee exempt signs.
- 15.08.050 Prohibited signs.
- 15.08.055 Sign maintenance.
- 15.08.060 Sign standards.
- 15.08.070 General provisions.
- 15.08.080 Projection over right-of-way.
- 15.08.090 Roof signs.
- 15.08.100 Wall signs.
- 15.08.105 Fascia signs.
- 15.08.110 Temporary signs.
- 15.08.120 Directional signs.
- 15.08.130 Off-premises signs and billboards.
- 15.08.140 Multiple-building complexes and multiple-tenant buildings.
- 15.08.150 Freeway signs.
- 15.08.160 Legal nonconforming signs.
- 15.08.170 Administrative adjustment of sign standards allowed.
- 15.08.180 Variances.
- 15.08.190 Violations.

15.08.010 Purpose.

The purpose of this chapter is to accommodate and promote sign placement consistent with the character and intent of the zoning district; proper sign maintenance; elimination of visual clutter; and creative and innovative sign design. To accomplish this purpose, the posting, displaying, erecting, use, and maintenance of signs within the urban area shall occur in accordance with this chapter. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.08.020 Definitions.

For the purpose of this chapter, certain abbreviations, terms, phrases, words and derivatives shall be construed as specified herein.

“Abandoned sign” means any sign located on property that is vacant and unoccupied for a period of six months or more, or any sign which pertains to any occupant, business or event unrelated to the present occupant or use.

“Banner” means any sign of lightweight fabric or similar material that is mounted to a pole or building at one or more edges. National flags, state and local flags or any official flag at an institution or business will not be considered banners.

“Canopy sign” means any sign that is part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

“Changing message center sign” means an electronically controlled sign where different automatic changing messages are shown on the lamp bank. This definition includes time and temperature displays.

“Construction sign” means any sign used to identify the architects, engineers, contractors or other individuals or firms involved with the construction of a building and to show the design of the building or the purpose for which the building is intended.

Directional Sign. See “off-premises directional sign” and “on-premises directional sign.”

“Electrical sign” means a sign or sign structure in which electrical wiring, connections, and/or fixtures are used as part of the sign proper.

“Fascia board” means:

1. A board used on the outside vertical face of a cornice.
2. The board connecting the top of the siding with the bottom of a soffit.
3. A board nailed across the ends of the rafters at the eaves.
4. The edge beam of a bridge.
5. A flat member or band at the surface of a building.

Front View

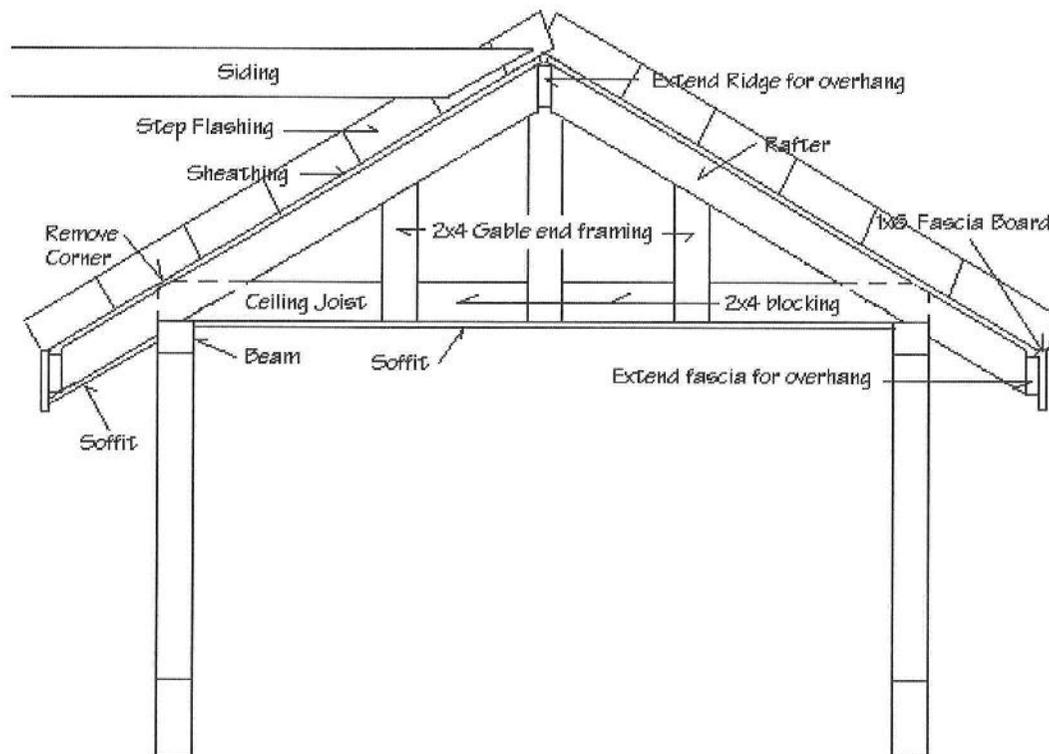
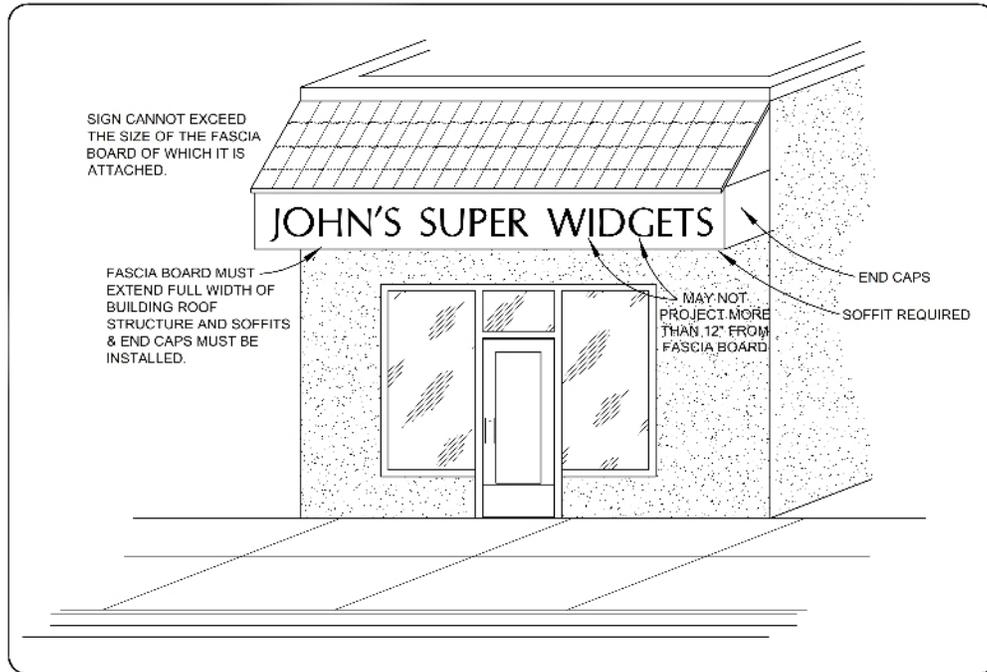


Figure 8-1

“Fascia sign” means a sign which is attached to the fascia board of an existing building’s roof structure where the sign projects less than one foot from the fascia or parapet of the building, including the parapet to which it is affixed, painted or attached, running parallel for its whole length to the face or wall of the building, and which does not extend beyond the horizontal width of such building. The building’s fascia board shall have a soffit and end caps installed flush with the bottom and ends of the sign, integrating the subject sign into the building’s fascia and overall roof system.



City Of Yakima
128 North Grand Street
Yakima, Washington

FASCIA SIGN (YMC 15.08.105)

Figure 8-2

“Flashing sign” means an electric sign or a portion thereof (except changing message centers) which changes light intensity in a sudden transitory burst, or which switches on and off in a constant pattern in which more than one-third of the nonconstant light source is off at any one time.

“Freestanding sign” means any sign supported by one or more uprights, poles or braces in or upon the ground.

“Freeway sign” means a freestanding sign designed and placed to attract the attention of freeway traffic.

“Grand opening sign” means temporary signs, posters, banners, strings of lights, clusters of flags, balloons and searchlights used to announce the opening of a completely new enterprise or the opening of an enterprise under new management.

“Marquee/display case sign” means a sign typically associated with, but not limited to, movie theaters, performing arts theaters, and theatrical playhouses. The sign is attached flat against and parallel to the surface of the structure, or attached to a structure approved by the building official. In addition, a changeable copy area is included where characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign. Marquee/display case signs shall be considered wall signs regulated under the provisions of YMC 15.08.100, and all sign materials placed behind the clear/translucent material shall not be considered a temporary sign subject to the provisions of YMC 15.08.110.

“Multiple-building complex” is a group of structures housing two or more retail, office, or commercial uses sharing the same lot, access and/or parking facilities, or a coordinated site plan. For purposes of this section, each multiple-building complex shall be considered a single use.

“Multiple-tenant building” is a single structure housing two or more retail, office, or commercial uses sharing the same lot, access and/or parking facilities, or a coordinated site plan. For purposes of this section, each multiple-building complex shall be considered a single use. (See YMC 15.08.140.)

“Off-premises directional sign” means an off-premises sign with directions to a particular business.

“Off-premises sign” means a sign advertising or promoting merchandise, service, goods, or entertainment sold, produced, manufactured or furnished at a place other than on the property where the sign is located.

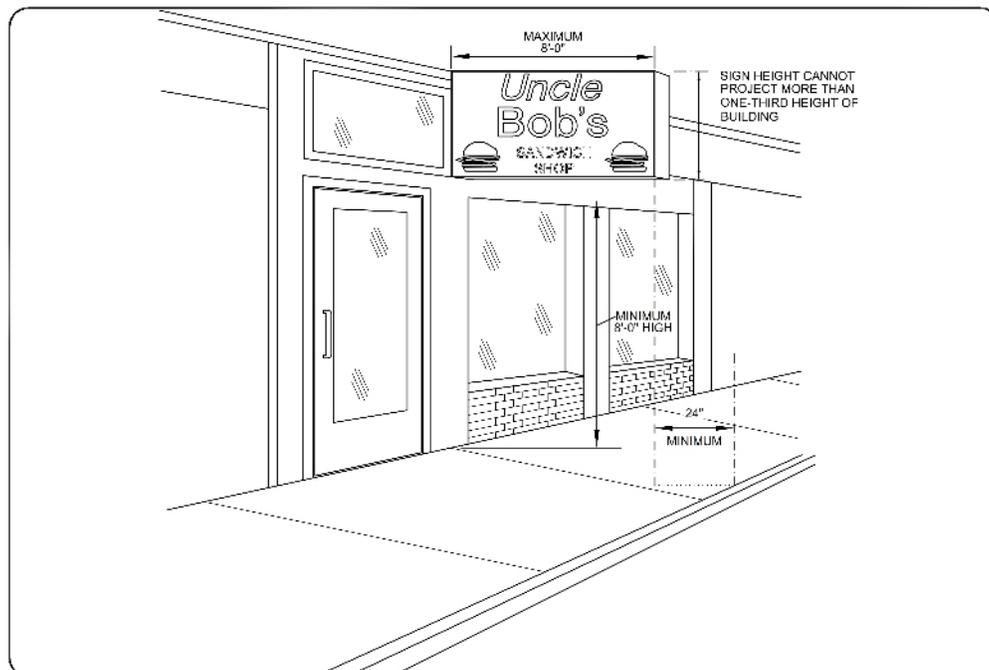
“On-premises directional sign” means a sign directing pedestrian or vehicular traffic to parking, entrances, exits, service areas, or other on-site locations.

“On-premises sign” means a sign incidental to a lawful use of the premises on which it is located, advertising the business transacted, services rendered, goods sold or products produced on the premises or the name of the business or name of the person, firm or corporation occupying the premises.

“Political sign” means a sign advertising a candidate or candidates for public elective offices, or a political party, or a sign urging a particular vote on a public issue decided by ballot.

“Portable sign” means a sign made of wood, metal, plastic, or other durable material that is not attached to the ground or a structure. This definition includes sandwich boards, and portable reader boards if placed on private property. Signs placed on public or street right-of-way, including public sidewalks, require review under YMC 8.20.055.

“Projecting sign” means a sign, other than a wall sign, that is attached to and projects from a structure or building face.



City Of Yakima
118 North Decatur Street
Yakima, Washington

PROJECTING SIGN (YMC 15.08.080)

Figure 8-3

“Real estate sign” means any sign pertaining to the sale, lease or rental of land or buildings.

“Roof sign” means any sign erected or constructed as an integral part or is essentially part of a normal roof structure of any building design, where any portion of the face of which is situated above the roof line to which it is attached, and which is wholly or partially supported by said building. See YMC 15.08.090.

“Sign” means any medium, including its structural component parts, used or intended to attract attention to the subject matter that identifies, advertises, and/or promotes an activity, product, service, place, business, or any other thing.

“Sign area” means that area contained within a single continuous perimeter enclosing the entire sign cabinet, but excluding any support or framing structure that does not convey a message.

“Sign cabinet” means the module or background containing the advertising message but excluding sign supports, architectural framing, or other decorative features which contain no written or advertising copy.

“Sign height” means the vertical distance measured from the grade below the sign or upper surface of the nearest street curb, whichever permits the greatest height, to the highest point of the sign.

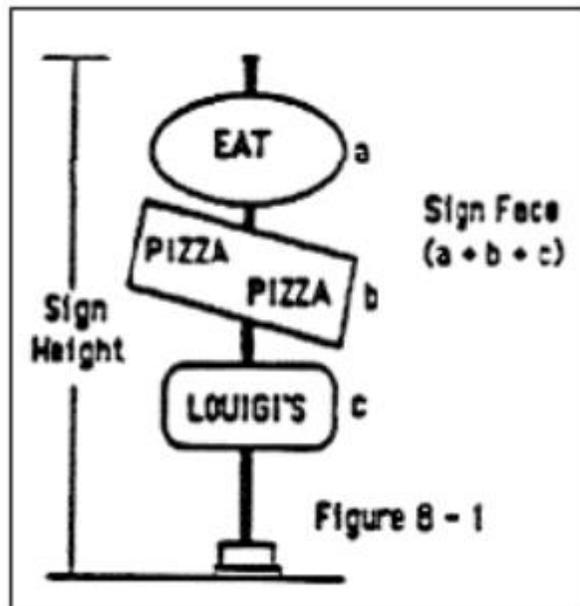


Figure 8-4

“Sign setback” means the horizontal distance from the property line to the nearest edge of the sign cabinet.

“Street frontage” means the length in feet of a property line(s) or lot line(s) bordering a public street. For corner lots, each street-side property line shall be a separate street frontage. The frontage for a single use or development on two or more lots shall be the sum of the individual lot frontages.

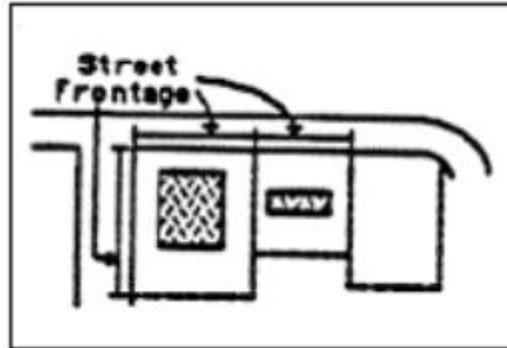
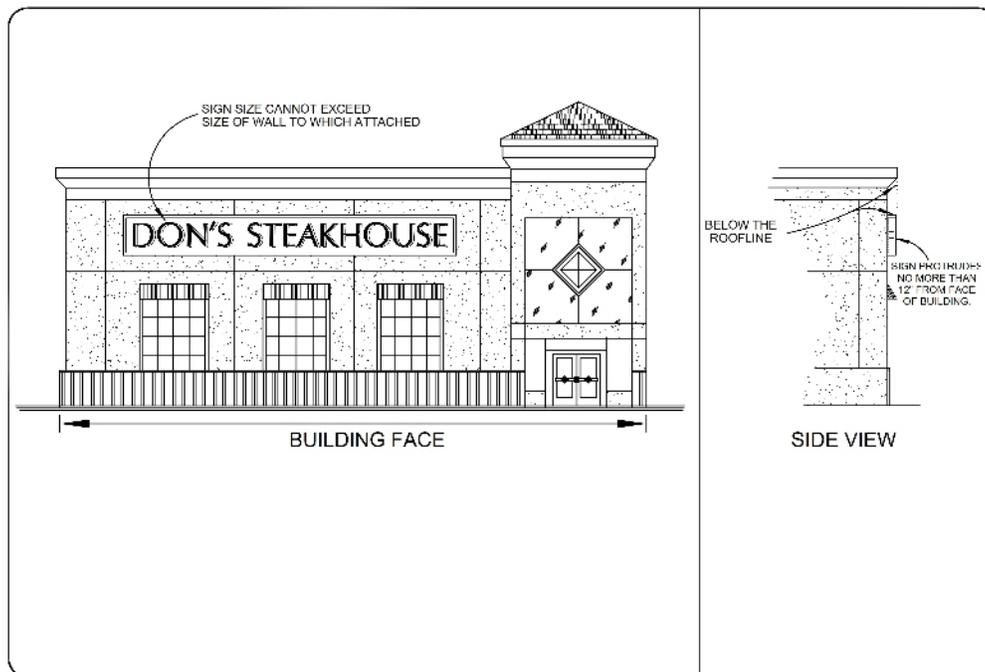


Figure 8-5

“Temporary sign” means any sign, banner, pennant, valance, or advertising display constructed of cloth, paper, canvas, cardboard, or other light nondurable materials. Types of displays included in this category are: grand opening, special sales, special event, and garage sale signs.

“Use identification sign” means a sign used to identify and/or contain information pertaining to a school, church, residential development, or a legal business other than a home occupation in a residential district.

“Wall sign” means any on-premises sign attached to or painted directly on, or erected against and parallel to, the wall of a building. See YMC 15.08.100.



City Of Yakima
128 North Second Street
Yakima, Washington

WALL SIGN (YMC 15.08.100)

Figure 8-6

“Window sign” means any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, placed inside a window or upon the window panes or

glass and visible from the exterior of the window. Window signs shall not be included in determining a site's total number of signs permitted or allowed sign area, and shall not be counted as wall or temporary signage as regulated under YMC 15.08.100 and 15.08.110. Window signage which exceeds fifty percent of any given window area is not permitted. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2010-34 § 4, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 32, 1993: Ord. 3106 § 16, 1988: Ord. 2947 § 1 (part), 1986).

15.08.030 Development permit required.

No sign governed by this title shall be erected, structurally altered or relocated after the adoption without first receiving a development permit from the building official.

1. For New Uses. All on-premises signs meeting the standards of this chapter are considered Class (1) uses requiring Type (1) review. On-premises signs not meeting the standards shall follow the procedures of YMC 15.08.170, and are otherwise not permitted. Off-premises signs and billboards are permitted as identified in YMC 15.08.130.
2. For Changes or Replacement of an Existing Sign. Structural changes to, or replacement of, an existing sign requires Type (1) review and approval by the building official. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2011-12 § 3, 2011: Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 33, 1987: Ord. 2947 § 1 (part), 1986).

15.08.040 Nonregulated signs.

Provided the below-mentioned signs meet the general provisions of YMC 15.08.070, and except when otherwise prohibited, or regulated in another section of this chapter, the following signs are not regulated as to their number and/or size, with the exception of window and temporary signs. All signs listed in this section do not require a permit:

1. Window signs, in conjunction with a permitted use, of which the signage does not exceed fifty percent or more of the total window area. Window signs shall not be included in determining the total number of permitted signs or allowed signage area, as regulated in YMC Chapter 15.08;
2. Point of purchase displays, such as product dispensers;
3. Gravestones;
4. Barber poles;
5. Historical site plaques;
6. Structures intended for a separate use such as phone booths, Goodwill containers, etc.;
7. Official and legal notices issued by any court, public body, person or officer in performance of a public duty or in giving any legal notice;
8. Directional, warning or information signs or structures required or authorized by law;
9. Official flags of the United States of America, states of the United States, counties, municipalities, official flags of foreign nations, and flags of internationally and nationally recognized organizations;
10. Political signs advertising a candidate or candidates for public elective office, a political party, or promoting a position on a public issue during a campaign; provided, that:
 - a. All political signs shall be removed within fifteen days following the election, except that in cases where a general election follows a primary election, those signs for candidates whose names will appear on the ballot in the general election may be displayed during the interim period and up to fifteen days after the general election; and
 - b. No political sign shall be erected upon any private property without the permission of the resident or owner thereof, and, in cases where there is no occupied structure on the property, no political signs shall be placed thereon without the written consent of the owner of the property;

11. Temporary signs; no more than two temporary signs per parcel, not to exceed a combined total of thirty-two square feet of sign area (see YMC 15.08.110);
12. Canopies and awning signs;
13. Official public or court notices issued by a government agency or body or required or provided for under adopted statute;
14. Construction and real estate signs up to thirty-two square feet in sign area. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2001-25 § 1, 2001: Ord. 93-81 § 33, 1993: Ord. 3019 § 34, 1987: Ord. 2947 § 1 (part), 1986).

15.08.045 Fee exempt signs.

The following signs are exempt from the fee requirements of YMC 11.04.030 and Title 15, but require submittal and approval of a sign permit meeting the general requirements of YMC 15.08.070, and the site specific standards of YMC Ch. 15.08:

1. On-premises signs not readable from the public right-of-way, i.e., menu boards, etc.;
2. On-premises directional signs;
3. Construction and real estate signs exceeding thirty-two square feet in sign area;
4. Church, school, and community center name and/or reader boards not exceeding thirty-two square feet in sign area;
5. Temporary signs totaling more than thirty-two square feet and up to sixty-four square feet of sign area per parcel, or more than two temporary signs per parcel, up to a maximum of four signs. (Ord. 2015-007 § 1 (Exh. A) (part), 2015).

15.08.050 Prohibited signs.

The following signs are prohibited:

1. Signs on any vehicle or trailer parked on public or private property and visible from a public right-of-way for the purpose of circumventing the provisions of this chapter. This provision shall not prohibit signs painted on or magnetically attached to any vehicle operating in the normal course of business;
2. Signs purporting to be, imitating, or resembling an official traffic sign or signal; could cause confusion with any official sign, or which obstruct the visibility of any traffic/street sign or signal;
3. Signs attached to utility, streetlight and traffic-control standard poles;
4. Swinging projecting signs;
5. Signs in a dilapidated (i.e., having peeling paint, major cracks or holes, and/or loose or dangling materials) or hazardous condition;
6. Abandoned signs;
7. Signs on doors, windows or fire escapes that restrict free ingress or egress; and
8. Any other sign not meeting the provisions of this chapter. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 34, 1993: Ord. 2947 § 1 (part), 1986).

15.08.055 Sign maintenance.

A. General Requirements. Signs shall be maintained in good order and repair at all times so that they do not constitute any danger or hazard to public safety, and are free of peeling paint, major cracks and loose and dangling materials. Signs that are not maintained in this manner shall be considered prohibited signs.

B. Nonconforming Sign Maintenance and Repair. Nothing in this title shall relieve the owner or user of a legal nonconforming sign, or the owner of the property on which the nonconforming sign is located, from the provisions of this section regarding safety, maintenance, repair, and/or removal of signs. (See YMC 15.08.160.) (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 35, 1993).

15.08.060 Sign standards.

The provisions of this chapter and the requirements in Table 8-1, "Type and Number of Signs Permitted," Table 8-2, "Maximum Sign Area," and Table 8-3, "Sign Height and Setbacks," are established for all signs in the zoning districts indicated. All permitted signs are subject to the review procedures of this title and the standards of this section. Signs for Class (1), (2) and (3) uses shall be subject to the same procedural and review requirements as the principal use.

Table 8-1. Type and Number of Signs Permitted

SIGN TYPE		ZONING DISTRICTS														
		SR	R-1	R-2	R-3	B-1	HB	B-2	SCC	LCC	CBD	GC	AS	RD	M-1	M-2
PERMITTED SIGNS																
On-Premises Signs	Nameplate	Permitted as an Accessory Use to an Approved or Existing Use														
	Subdivision Identification/Project Identification ²															
	Roof/Portable Signs	Not Permitted			Class (1) Use											
	Freestanding ¹	Subdivision/Proj. I.D. Only			On-premises signs meeting the standards of this chapter are considered Class (1) uses requiring Type (1) review. On-premises signs not meeting the standards of this chapter shall follow the procedures of YMC 15.08.170, and are otherwise not permitted.											
	Projecting	Not Permitted														
	Freeway	See YMC 15.08.150														
Off-Premises Signs	Directional	Not Permitted				Class (2) Use		Not Permitted		Class (2) Use				Class (1) Use		
	Advertising															
	Billboards															
NUMBER OF SIGNS PERMITTED																
On-Premises Signs	Nameplate	1 Per Dwelling														
		1 Per Street Frontage				1 Per Street Frontage										
	Freestanding ¹															
	Projecting	Not Permitted														
	Wall/Roof/Portable Signs				1. Wall: YMC 15.08.100/Roof: YMC 15.08.090 2. Portable: a. Non-Regulated: No more than two signs per parcel, not to exceed a combined total of 32 square feet of sign area; b. Fee Exempt: Signs totaling more than 32 square feet and up to 64 square feet of sign area per parcel, or more than two temporary signs per parcel, up to a maximum of four signs.											

SIGN TYPE		ZONING DISTRICTS														
		SR	R-1	R-2	R-3	B-1	HB	B-2	SCC	LCC	CBD	GC	AS	RD	M-1	M-2
Off-Premises Signs	Freeway						Freeway: See YMC 15.08.150									
	Directional						Directional: See YMC 15.08.120(B)									
	Advertising	Not Permitted					1 Sign Per Parcel (Also See YMC 15.08.130)									
	Billboards															

NOTES:

1. YMC 15.08.140 has freestanding sign provisions for multiple-building complexes and multiple-tenant buildings.
2. Nameplates and subdivision identification signs permitted in the residential districts may be placed on a wall—See Table 8-2.

Table 8-2. Maximum Sign Area

		Freestanding and Projecting Signs			
SR, R-1, R-2, and R-3		Nameplates up to 2 sq. ft. and subdivision/project identification up to 32 sq. ft.		NOT PERMITTED	
HB and B-1		24 sq. ft.	40 sq. ft.	SIZE OF WALL TO WHICH ATTACHED	WHERE PERMITTED: UP TO 300 SQUARE FOOT
B-2		40 sq. ft.	60 sq. ft.		
SCC	Frontage is less than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 100 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.		
	Frontage is more than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.		
LCC	Frontage is less than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.		
	Frontage is more than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 250 sq. ft.		
CBD		1 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.			
GC	Frontage is less than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.		
	Frontage is more than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 250 sq. ft.		
AS	Frontage is less than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.		
	Frontage is more than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 250 sq. ft.		
RD	Frontage is less than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.		
	Frontage is more than 400 ft. long	1 sq. ft. of sign area per lineal ft. of frontage up to 200 sq. ft.	1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 250 sq. ft.		
M-1		1 sq. ft. of sign area per lineal ft. of frontage up to 100 sq. ft.			
M-2		1-1/2 sq. ft. of sign area per lineal ft. of frontage up to 150 sq. ft.			
MAXIMUM AREA PER SIGN = 2 TIMES THE MAXIMUM AREA PER SIGN FACE					

Table 8-3. Sign Height and Setbacks

SIGN STANDARDS		ZONING DISTRICTS														
		SR	R-1	R-2	R-3	B-1	HB	B-2	SCC	LCC	CBD	GC	AS	RD	M-1	M-2
MAXIMUM SIGN HEIGHT																
Freestanding ¹	Sign is set back 15 feet or less from required right-of-way	5 ft.			10 ft.		15 ft.	30 ft.	30 ft.	30 ft.	30 ft.					
	Sign is set back more than 15 feet from required right-of-way	10 ft.			15 ft.		20 ft.	35 ft.	40 ft.	30 ft.	40 ft.					
Projecting		Not permitted ²				See YMC 15.08.080										
1.	Wall					1.	Top of wall to which attached (YMC 15.08.100)									
2.	Fascia					2.	Horizontal and vertical limits of fascia board to which attached (YMC 15.08.105)									
Freeway						Where permitted: 70 ft.										
SETBACKS																
Minimum front yard setbacks		Edge of right-of-way														
Minimum side yard setbacks		Required setback standards for each zoning district (Table 5-1)														
Notes:																
1 YMC 15.08.140 has special freestanding sign provisions for multiple-building complexes and multiple-tenant buildings.																
2 Nameplates and subdivision identification signs permitted in the residential districts may be placed on a wall. (See Table 8-2.)																

(Ord. 2015-007 § 1 (Exh. A) (part), 2015; Ord. 2011-12 § 4 (part), 2011; Ord. 2008-46 § 1 (part), 2008; Ord. 93-81 § 36, 1993; Ord. 3106 § 17, 1988; Ord. 3019 § 35, 1987; Ord. 2947 § 1 (part), 1986).

15.08.070 General provisions.

All signs shall comply with the following provisions:

- A. Construction shall satisfy the requirements of the building code;
- B. Except for nonregulated and temporary signs, all signs shall be permanently attached to a building or the ground;
- C. Signs attached to a building shall not exceed the height of the building, except under the provisions of YMC 15.08.080(1) and 15.08.090;
- D. All signs shall comply with the setback requirements in Table 8-3, except when the side or rear yard is a street frontage, then the front setback shall apply;
- E. Lighting directed on or internal to any sign shall be shaded, screened, or directed so that the light's intensity or brightness shall not adversely affect neighboring property or motor vehicle safety;
- F. All signs together with their supports, braces, and guys shall be maintained in a safe and secure manner;

G. The ratio of the area of the sign support, framing structure, and/or other decorative features which contain no written or advertising copy to the sign cabinet shall not be greater than 1:1;

H. A clearview triangle shall be maintained at all driveways and curb cuts for vision safety purposes (see YMC 15.05.040);

I. No freestanding signs shall be placed in the clearview triangle established in YMC 15.05.040; and

J. Any exterior lighting must be shielded and directed away from adjoining streets or residential uses. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2011-12 § 4 (part), 2011: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 37, 1993: Ord. 3106 § 18, 1988: Ord. 2947 § 1 (part), 1986).

15.08.080 Projection over right-of-way.

Projecting and freestanding signs shall comply with the following provisions:

1. No more than one-third of the height of any projecting sign shall exceed the height of the building to which it is attached.
2. All signs projecting over the public right-of-way shall conform to the following standards:

Clearance Above Grade	Maximum Projection
Less than 8 feet	Not permitted
8 feet to 9 feet	1 foot
9 feet to 10 feet	2 feet
Over 10 feet	2/3 the distance from building to curb line or a maximum of 10 feet

No sign shall project within two feet of the curb line. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 36, 1987: Ord. 2947 § 1 (part), 1986).

15.08.090 Roof signs.

All roof signs shall comply with the following provisions:

1. Roof signs shall be constructed upon the roof of a building.
2. Roof signs shall be integrated into the roof system of an existing building, or be erected so as to appear from all sides as a wall sign applied to an existing penthouse which appears to be a part of the building itself.
3. Roof signs must not exceed the maximum allowable height of the building within the district in which it is located.
4. All roof signs shall be installed or erected in such a manner that there is no visible support structure. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.08.100 Wall signs.

All wall signs shall conform to the following provisions:

1. Wall signs may be painted upon, attached flat to, or pinned away from the wall, but shall not project more than twelve inches from the wall.
2. The number of wall signs is not regulated; provided, the total area of the wall sign(s) may not exceed the area of the wall to which attached.

3. Wall signs shall not extend above the height of the wall to which attached.
4. Marquee/Display Case Signs.
 - a. Marquee/display case signs shall have:
 - i. A changeable copy area where characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign;
 - ii. The sign face shall be made of a translucent durable material;
 - iii. The sign cabinet/display case shall be lockable and capable of preserving the sign material inside from the elements. (Ord. 2015-007 § 1 (Exh. A) (part), 2015; Ord. 2008-46 § 1 (part), 2008; Ord. 93-81 § 38, 1993; Ord. 2947 § 1 (part), 1986).

15.08.105 Fascia signs.

A fascia sign is a sign which is attached to the fascia board of an existing building's roof structure.

1. Fascia signs may be painted upon, attached flat to, or pinned/projecting from the fascia board, but shall not project more than twelve inches from the fascia board.
2. The number of fascia signs is not regulated; provided, the total area of the sign(s) may not exceed the area of the fascia board to which it is attached.
3. Fascia signs shall not extend beyond the horizontal and vertical limits of the fascia board to which it is attached. (Ord. 2015-007 § 1 (Exh. A) (part), 2015).

15.08.110 Temporary signs.

All temporary signs shall conform to the following:

1. No temporary sign shall be placed in a required parking space, driveway, or clearview triangle.
2. No temporary sign may be placed in the public right-of-way or an easement unless specifically permitted by the city/~~county~~.
3. Temporary signs placed on the ground shall be separated from parking and driveway areas by a curb or other barrier.
4. No temporary sign shall be displayed more than fifteen days after the event for which it is intended. (Ord. 2015-007 § 1 (Exh. A) (part), 2015; Ord. 2008-46 § 1 (part), 2008; Ord. 2001-25 § 2, 2001; Ord. 93-81 § 39, 1993; Ord. 2947 § 1 (part), 1986).

15.08.120 Directional signs.

A. On-Premises Directional Signs. On-premises directional signs readable from the public right-of-way may be permitted in accordance with Table 8-1. On-premises directional signs may contain both directions and the business name or logo, provided the business name or logo shall not exceed fifty percent of the sign area. All on-premises directional signs shall meet the general provisions of this section, and shall not exceed ten square feet per sign face.

B. Off-Premises Directional Signs. Off-premises directional signs are permitted where indicated in YMC 15.08.130(B); provided, that:

1. Each use located in a district where off-premises directional signs are allowed is permitted one off-premises directional sign;
2. The off-premises sign contains only directional information and does not exceed thirty-two square feet in area nor twenty-five feet in height;
3. The off-premises signs are permanently installed on private property;

4. Only one off-premises sign is permitted on a parcel. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.08.130 Off-premises signs and billboards.

A. Billboards are:

1. Class (1) uses in the M-1 and M-2 districts; and
2. Class (2) uses in the CBD, GC, and RD districts.

B. Billboards may be permitted in these districts after the required level of review, provided they meet the provisions of this chapter and all of the following criteria:

1. The maximum sign area does not exceed three hundred square feet per sign face;
2. There is no more than one product displayed per sign face;
3. There are no side-by-side panels;
4. Required front yard setbacks are met;
5. Billboards between a one-hundred-fifty- and three-hundred-foot radius of a residential district shall be restricted to one hundred sixty square feet per sign face and may not be lighted;
6. No billboard shall be located within one hundred fifty feet of a residential district;
7. The billboard is not within five hundred lineal feet of another billboard having the same street frontage;
8. Billboard height standards shall not exceed that permitted for freestanding signs as provided in Table 8-3;
9. The total number of combined freestanding signs, off-premises signs and billboards does not exceed the number of freestanding signs allowed for the property.

C. Off-premises signs are:

1. Class (1) uses in the M-1 and M-2 districts;
2. Class (2) uses in the B-2, CBD, GC, and RD districts.

Off-premises signs may be permitted in these districts after the required level of review, provided they meet the provisions of this chapter and the specific standards for the district in which they are located. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 40, 1993: Ord. 2947 § 1 (part), 1986).

15.08.140 Multiple-building complexes and multiple-tenant buildings.

A. Purpose. The following provisions shall apply to multiple-building complexes and multiple-tenant buildings in the SCC, LCC, GC, and RD districts.

B. Number of Freestanding Signs. Each multiple-building complex shall be allowed one freestanding sign on each street frontage in accordance with Table 8-2. When the street frontage is longer than four hundred feet:

1. One additional freestanding sign shall be permitted for each additional four hundred feet of street frontage or part thereof; or
2. A single, larger freestanding sign can be erected in accordance with Table 8-2.

If option 1, as set forth in subsection (B)(1) of this section, is selected, no freestanding sign shall be placed closer than two hundred feet to any other freestanding sign or exceed the standards in Table 8-2. These provisions shall also apply to each multiple-tenant building, unless it is a part of a multiple-building complex.

The allowable freestanding sign(s) may be used to advertise one or more of the uses in the multiple-building complex or multiple-tenant building. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.08.150 Freeway signs.

A. Purpose. The purpose of this section is to permit hotels/motels, restaurants, service stations and fruit stands near the freeway a larger on-premises sign to inform freeway travelers of their service.

B. Location. A freeway sign may be used to substitute an allowable freestanding sign where there is more than one street frontage, when the use:

1. Has frontage on Nob Hill Blvd., Yakima Avenue, Terrace Heights Drive, North 1st Street, North 16th Avenue, or North 40th Avenue and all or a portion of the lot is within one thousand feet of a freeway interchange; or
2. Is within two hundred fifty feet of the freeway right-of-way.

C. Number of Freeway Signs. Only one freeway sign is permitted on each parcel, multiple-building complex or for each development, whichever is more restrictive.

D. Uses with Only One Frontage. Uses within the area described in subsection B of this section with only one street frontage may install a freeway sign in addition to the permitted freestanding sign.

E. Sign Height. The maximum height for freeway signs is shown in Table 8-3. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 41, 1993: Ord. 2947 § 1 (part), 1986).

15.08.160 Legal nonconforming signs.

Any sign lawfully existing under all codes and ordinances in effect at the time this title is enacted or amended may continue to be maintained and operated as a legal nonconforming sign so long as it remains otherwise lawful; provided, that:

A. No sign shall be changed in any manner that increases its noncompliance with the provisions of this title; and

B. If the sign is structurally altered or moved, its legal nonconforming status shall be voided, and the sign will be required to conform to the provisions of this title. Nothing in this section shall be construed to restrict normal structural repair and maintenance; and

C. The sign is not a hazardous or abandoned sign. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.08.170 Administrative adjustment of sign standards allowed.

A. Comprehensive Design Plan. A comprehensive design plan is required whenever adjustment of one or more of the sign design standards of this chapter is proposed or when required as part of a detailed sign plan. The comprehensive design plan shall include a narrative and site plan, including but not limited to the following:

1. Site plan which includes the physical components of the sign including sign size, height, shape, color, location and associated landscaping;
2. A description of how the sign relates to the immediate surroundings, including existing and proposed structures, other signs, neighboring land uses and the character of the zoning district;
3. An explanation of why the existing sign standards are not adequate and require adjustment; and
4. For multiple-tenant buildings and multiple-building complexes, a description of how the available sign area will be allocated between tenants or leasable spaces.

B. Review Procedures. The administrative official shall review the comprehensive design plan in accordance with the provisions of YMC Chapter 15.10 and may either approve or disapprove the plan. The administrative

official shall approve the comprehensive design plan and/or adjustments in the standards of this chapter when he finds that such approval would be consistent with the character of the zoning district, compatible with neighboring land uses, and create visual harmony between the sign, structure, and the site where it is located. The administrative official may also attach conditions to this approval in order to accomplish the objectives of this section and YMC 15.10.039040. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2011-12 § 5, 2011: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 42, 1993; Ord. 3019 § 27, 1987; Ord. 2947 § 1 (part), 1986).

15.08.180 Variances.

Except as allowed by YMC 15.08.170, no reduction of the standards in this chapter is allowed except pursuant to YMC Chapter 15.21. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.08.190 Violations.

Failure to comply with the provisions of this chapter is a violation and punishable under YMC Chapter 15.25. (Ord. 2015-007 § 1 (Exh. A) (part), 2015: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.09

SPECIAL DEVELOPMENT STANDARDS

Sections:

- 15.09.010 Purpose.
- 15.09.020 Special development standards for the district overlays.
- 15.09.030 Common open space requirements.
- 15.09.040 Zero lot line development.
- 15.09.045 Accessory dwelling units.
- 15.09.050 Performance standards—Emissions.
- 15.09.060 Special development standards for service stations and other retail uses selling motor fuel.
- 15.09.070 Special requirements for animal husbandry.
- 15.09.080 Special requirements for bed and breakfast inns.
- 15.09.090 Special requirements for social card rooms.
- 15.09.100 Private street review requirements.
- 15.09.110 Reasonable accommodations process.
- 15.09.120 Community garden development standards.
- 15.09.200 Adult business.
- 15.09.210 Special requirements for retaining walls.

15.09.010 Purpose.

A. Purpose. The overlays are established to coordinate the provisions established in the zoning ordinance with more detailed policies and standards adopted in other plans and ordinances. Specific overlays have been established as follows:

Overlay District	Districts or Programs
Greenway Overlay	Yakima River Regional Greenway Plan; Shoreline Master Program
Floodplain Overlay	Shoreline Master Program; National Flood Insurance Program (flood-hazard areas)
Overlays established separately in this title	
Airport Safety Overlay (see YMC Chapter 15.30)	Yakima Air Terminal at McAllister Field; other public airport with defined airspace per FAR Part 77
Institutional Overlay (see YMC Chapter 15.31)	Large-scale institutional facilities with special locational needs
Master Planned Development Overlay (see YMC Chapter 15.28)	Master planned development (residential, commercial, industrial or mixed-use development)
Floodplain Overlay	National Flood Insurance Program (flood hazard areas); City of Yakima Critical Area Ordinance YMC 15.27; Shoreline Master Program YMC Title 17;

B. Application. The provisions of this chapter shall apply when all or a portion of a development, or modification thereto, is proposed within the boundaries of an overlay. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.09.020 Special development standards for the district overlays.

A. Project Review in an Overlay Not Separately Established. In order to assure the appropriate standards are applied, all Class (1) uses in an overlay which is not separately established unless otherwise specified shall be

subject to Type (2) review (YMC Chapter 15.14). All Class (2) uses shall be subject to Type (2) review and Class (3) uses in an overlay district shall be subject to Type (3) review. The administrative official may condition or deny approval of any use, development, or modification thereto in an overlay based on the provisions set forth and adopted by this section.

B. Special Development Standards in the Greenway Overlay. All development in the greenway overlay shall conform to the requirements and standards of the underlying zoning district and the policies and intent of the Yakima River regional greenway plan.

C. Special Development Standards in the Floodplain Overlay. All development in the floodplain overlay shall conform to the requirements and standards of the underlying zoning district, and ~~the flood damage prevention ordinance adopted by the county/city~~ the City of Yakima's adopted Critical Area (YMC 15.27) and Shoreline Master Program (YMC Title 17) ordinances. ~~Development within shorelines jurisdiction or the floodplain shall also be consistent with the county or city shorelines master program and/or the flood damage prevention ordinance.~~

~~D.— Coordination with the Shorelines Master Program. If a proposed Class (2) or (3) use, nonconforming use expansion, or modification is proposed on property within the jurisdictional boundaries of the Yakima County shoreline master program and is subject to permits thereof, then the proposed change shall not be subject to the procedural requirements, but shall be subject to all applicable standards. If a conflict exists between the standards of the shoreline master program and YMC Title 15, the more restrictive provisions shall apply. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 2001-04 § 3, 2001: Ord. 98-59 § 3, 1998: Ord. 3106 § 19, 1988: Ord. 2947 § 1 (part), 1986).~~

15.09.030 Common open space requirements.

The following provisions shall apply whenever common open space is proposed by the developer, or when required by an administrative official under Type (2) or (3) review as a condition of approval:

A. Use. The common open space may be used for recreation; shoreline access; landscaping; land use, visual, or noise buffer; drainage control; or other uses approved by the reviewing official during project review. Uses authorized for the common open space shall be appropriate with the use, size and density of the proposed development and the natural features of the site. Common open space shall be improved for its intended use, but common open space containing natural features may be left unimproved. All structures and improvements permitted in the common open space must be appropriate with the authorized use and natural features of the common open space. Common open space may be used only for those uses specified in the approved final site plan.

B. Location. The location, shape, size, and character of the open space shall be suitable for the type of project. Generally, common open space shall be:

1. Located next to other open space areas;
2. Located so that it buffers the proposed development from neighboring developments; or
3. Located to provide access to recreation facilities or link recreational facilities with sidewalks or paths.

C. Retention and Maintenance. The final site plan shall include a provision approved by the reviewing official assuring the permanent retention and maintenance of the common open space. Such assurance may be in the form of restrictive covenants, dedication of open space to the public where such dedication will be accepted by the legislative body, a homeowner's association, or any other method approved by the administrative official. All legal documents to carry out this requirement shall be approved by the jurisdiction's legal authority. The document shall contain a provision vesting the ~~county/city~~ with the right to enforce the permanent retention and maintenance of the common open space and provide that in the event that common open space is permitted to deteriorate, or is not maintained in a condition consistent with the approved plan and program, the ~~county/city~~ may at its option cause necessary maintenance to be performed and assess the costs thereof to the owners of the property within the project. A document shall also provide for the collection of such costs by lien and/or direct civil action. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.09.040 Zero lot line development.

A. Purpose. Zero lot line development for single-family dwellings may be permitted in order to: promote efficient land use, permit a more energy-efficient arrangement of structures, protect environmentally sensitive areas, or provide more usable private or community open space.

B. Review Required. Zero lot line development in subdivisions and short subdivisions approved after the effective date of the ordinance codified in this section may be approved by a Type (2) review. Zero lot line development may also be approved on lots created before the effective date by a Type (3) review. A site plan meeting the requirements of YMC 15.11.~~040-030~~ or, as applicable, YMC 15.11.~~050040~~, shall be prepared for all zero lot line development.

C. Development Standards. All zero lot line developments shall comply with the standards of Tables 5-1 and 5-2, the provisions and the following requirements; provided, that where the standards included herein conflict with the standards established in other sections, the standards herein shall apply:

1. Dwelling Unit Setbacks.

a. Interior Side Yard Setback Standard. The dwelling unit may be placed on one interior side property line (a zero setback). The setback standard from the other side property line shall be ten feet. No structures except for patios, pools, fences, walls, and other similar elements are permitted within the required setback area.

b. Rear Yard Setback Standard. The rear yard setback standard is ten feet.

c. Front and Street-Side Setback Standards. Front and street-side setback standards shall be those shown on Table 5-1.

2. Accessory Building Setback. Accessory buildings and structures shall observe the setback requirements for the main dwelling unit.

3. Maximum Lot Coverage. The total lot coverage on a lot shall not exceed the district requirements established in Table 5-1.

4. Platting Requirements. Each dwelling shall be located on its own individual platted lot. The plat shall show the zero lot lines and the related easements.

5. Openings Prohibited on the Zero Lot Line Side. In order to maintain privacy, there shall be no windows, doors, air conditioning units, or any other type of openings in the wall along the zero lot line, except when such a wall abuts permanent open spaces or a public or private right-of-way.

6. Maintenance and Drainage Easements. A perpetual maintenance, eave overhang, and drainage easement at least five feet wide shall be provided on the lot adjacent to the zero lot line property line, which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be shown on the plat and incorporated into each deed transferring title on the property. The wall shall be maintained in its original color and treatment unless otherwise agreed to in writing by the two affected lot owners. Eaves, but no other part of any structure, may protrude across a side lot line, and such protrusion shall not exceed eighteen inches. Water runoff from the dwelling placed on the lot is limited to the easement area.

7. Common Open Space and Maintenance Facilities. Any common open space provided shall comply with YMC 15.09.030. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.09.045 Accessory dwelling units.

A. Purpose. The purpose of the accessory dwelling unit (ADU) provisions are to:

1. Provide homeowners with an opportunity for extra income, companionship, and security;

2. Better utilize existing infrastructure and community resources (sewer, water, roads, etc.);

3. Provide a housing type that allows flexibility to respond to changing needs and lifestyles;
4. Add to the supply of affordable dwelling units; and
5. Protect neighborhood character and stability by ensuring that ADUs are compatible with surrounding land uses.

B. Requirements. An accessory dwelling unit is a permitted Class (3) use, secondary to the primary use of a detached single-family dwelling, subject to all of the following conditions:

1. The accessory dwelling unit may be attached to the primary residence or attached to or above a detached garage.
2. The front entrance to the ADU shall not be visible from a right-of-way or access easement.
3. Paved off-street parking shall be provided as required in YMC Chapter 15.06 for both the ADU and the primary residence, separately, located on the lot they are intended to serve.
4. The ADU's floor area shall be comprised of not more than fifty percent of the floor area of the primary dwelling unit or eight hundred square feet, whichever is less. For example, a primary detached dwelling unit two thousand eight hundred square feet in size would be limited to eight hundred square feet. A primary structure one thousand square feet in size would be limited to five hundred square feet.
5. The ADU's exterior walls shall be designed so as to be similar in style, color, and building materials to the primary detached dwelling.
6. The ADU shall have the same building setbacks as the primary structure.
7. A parcel/lot shall contain no more than one single-family residence and one ADU.
8. ADUs shall not be allowed on parcels containing a duplex or multifamily dwelling, or a commercial or industrial structure/use.
9. ADUs shall only be permitted on parcels/lots one-quarter acre in size or larger.
10. The primary residence and the ADU shall both be connected to public sewer and water.
 - a. If the ADU is attached to the primary dwelling unit, the two dwelling units shall share a single sewer and water connection.
 - b. If the ADU is attached to, or located above, a detached garage, each unit shall have its own sewer and water connection, with required meters.
11. A lot containing an ADU shall not be subdivided, or otherwise segregated in ownership, in a way that separates the ADU and the primary dwelling unit on different lots.
12. A home occupation may be allowed, subject to YMC 15.04.120, in either the ADU or the primary unit, but not both.
13. The site plan for the construction or conversion of an ADU shall indicate the ADU.
14. Any exterior stairs shall be placed in the rear or side yard.
15. A deed restriction, signed by the property owner and the city, shall be recorded with the Yakima County auditor's office providing notice to potential buyers of the ADU restrictions.

C. Enforcement. The city retains the right with reasonable notice to inspect the ADU for compliance with the provisions of this section.

D. Elimination. The city retains the right with reasonable notice to withdraw occupancy approval if any of the requirements under subsection B of this section are violated. In the event the city withdraws occupancy, the property owner may:

1. If attached, merge the existing ADU to the single-family dwelling; or
2. If detached, use the building for storage only or remove the structure from the premises. (Ord. 2010-16 § 13 (part), 2010).

15.09.050 Performance standards—Emissions.

A. Purpose and Application. The purpose of this section is to provide guidelines and general standards governing emissions and miscellaneous items covered herein for use in evaluating the impact of proposed developments and uses, or changes or alterations thereto, being considered under the terms. A reviewing official, including those engaged in Type (1) review or administrative modification review may impose reasonable conditions, or in appropriate instances deny proposed developments based on the standards and guidelines set forth in this section, in order to assure that permitted uses do not generate gases, fumes, heat, glare, vibrations, or store solid waste in a manner inconsistent with the intent of the district and/or incompatible with surrounding uses.

B. Gases, Fumes and Vapors. The emission of any gases, fumes, or vapors dangerous to human health, animal life, vegetation, or property is prohibited.

C. Heat. No use shall produce heat significantly perceptible beyond its lot lines.

D. Glare. No use shall produce a strong dazzling light, or reflection of a strong dazzling light, beyond its lot lines.

E. Vibrations. No use shall cause vibrations or concussions detectable beyond its lot lines without the aid of instruments, except for vibration resulting from construction activity.

F. Storage and Waste Disposal. All materials and waste which might cause fumes or dust, constitute a fire hazard, produce offensive odors, or which may be edible or otherwise attractive to rodents or insects shall be stored in closed containers and in a manner to eliminate or prevent such hazards. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.09.060 Special development standards for service stations and other retail uses selling motor fuel.

A. Purpose. The purpose of this section is to establish special site design standards for new service stations and other retail uses supplying motor fuel. These standards are intended to assure that these uses are compatible with adjoining residential districts and the character of the district in which they are located.

B. Fifty-Foot Setback from Residential Districts Required. Each pump island shall be set back at least fifty feet from the zoning district boundary of all adjoining residential districts. Other permitted structures shall comply with the setback provisions established in Table 5-1.

C. Storage and Display of Vehicles Prohibited. No area of any service station or other retail use selling gasoline shall be used for the storage, display, and sale or leasing of any new or used vehicle. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.09.070).

15.09.070 Special requirements for animal husbandry.

A. Purpose. The purpose of this section is to assure that the raising of domesticated farm animals within the urban area is compatible with adjoining residential uses and the intent and character of the district they are located in.

B. Minimum Lot Size. The minimum lot size for animal husbandry within the Yakima urban area is one-half acre. A lot at least one-half acre in size shall be deemed to meet this requirement even though a portion of the lot may be used for a single-family dwelling.

C. Project Review. Animal husbandry operations, which would create noise and odors, attract insects or rodents or are otherwise incompatible with surrounding residential uses or the intent of the zoning district, may be conditioned or denied by the reviewing official in accordance with the provisions of this section.

D. Minimum Setback.

1. No portion of any structure used to house a domesticated farm animal shall be located within one hundred feet of any residence other than a dwelling on the same lot; and

2. No portion of any structure used to house a domestic farm animal shall be located within ten feet of a residence where the residence and domestic farm animal structure are located upon the same lot/tax parcel.

E. Maximum Number of Animals. The maximum number of animals that may be kept on the site at any time of the year shall be the number of animals that can be sustained by the pasture on which they are kept as their primary source of food, except during the winter months. The burden of proving that the pasture can sustain the number of animals in question shall be on the applicant.

F. Fencing. Fencing adequate to contain the animals shall be provided and maintained. (Ord. 2011-52 § 8, 2011: Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 43, 1993; Ord. 3106 § 21, 1988. Formerly 15.09.090).

15.09.080 Special requirements for bed and breakfast inns.

Bed and breakfast inns shall meet all applicable health, fire, safety, and building codes. Any reception hall or meeting room shall be restricted to serve no more than the total number of tenants, unless otherwise specifically authorized. In addition, bed and breakfast inns shall be subject to the following requirements, except in those zoning districts where motels and hotels are Class (1), (2), or (3) uses:

A. Home occupation bed and breakfast inns shall be operated so as not to give the appearance of being a business and the inn shall not infringe upon the rights of neighboring residents to peaceful occupancy of their homes. Minimal outward modifications of the structure or grounds may be made only if such changes are compatible with the character of the neighborhood.

B. Meals shall only be served to guests, even if required to be licensed as a restaurant under state regulations, except as otherwise permitted in this title.

C. The number of guest rooms shall not be increased through any exterior modifications or additions to the home occupation bed and breakfast.

D. The front yard area shall not be used for off-street parking for bed and breakfast guests unless the parking area is screened and found to be compatible with the neighborhood or unless waived by the reviewing official.

E. One nonilluminated or externally illuminated sign not exceeding the maximum size allowed within the applicable zoning district, and bearing only the name of the inn and/or operator, shall be permitted.

F. The administrative official may authorize use of the bed and breakfast inn for receptions, group meetings and special gatherings based upon the size of the inn, availability of adequate off-street parking spaces, public health considerations, and compatibility with the surrounding neighborhood.

G. No more than five lodging or guest rooms shall be allowed for home occupations. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 44, 1993. Formerly 15.09.100).

15.09.090 Special requirements for social card rooms.

No social card room shall be permitted within five hundred feet of any public school, private school (meeting the requirements for private schools under Title 28A RCW), church or park, as measured according to RCW 66.24.010(9), or as the same may be hereafter amended. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008: Ord. 2002-53 § 4, 2002. Formerly 15.09.190).

15.09.100 Private street review requirements.

Private Roads—General Requirements. Private streets serving three lots, housing units or more may be approved as an element of a master planned development overlay (YMC Chapter 15.28), a mobile home/manufactured park (YMC 15.04.150), a condominium or within a binding site plan in conformance with subdivision requirements.

- A. Any private road that is located in a private street subdivision shall be constructed to the minimum standard of the appropriate jurisdiction and shall be permanently retained and maintained as a private road.
- B. Private roads are the responsibility of the landowners to construct and maintain in accordance with YMC Chapter 15.09 and shall be specified in a homeowner's association, development agreement or other maintenance plan.
- C. Names for private roads shall be approved by city ~~or county~~ planning departments.
- D. Private roadway signs with street name designations shall be provided by and maintained by the developer or homeowner's association and shall be located at the intersections of private roads. Such signs shall meet the specifications set forth by the respective governing body.
- E. A gate may be installed at the entrance to a private street, provided there is a minimum of 50 feet between the public street and the gate and the width of each travel aisle is 24 feet.
- F. A private gate shall not obstruct emergency, public service, or utility vehicles access.
- G. Private roads and the entire easement or right-of-way width shall be open and available for use by emergency, public service, and utility vehicles.
- H. The face of any plat, short plat, master development plan, binding site plan, or condominium document containing a private road, and all subsequent documents transferring ownership of lots within such plat or short plat, shall bear the following language:

The City of Yakima has no responsibility to build, improve, maintain or otherwise service any private road for this plat/short plat. Any right-of-way dedicated to the public by this plat/short plat shall not be opened as a City (or County) street until such time as it is improved to city ~~(or County)~~ street standards and accepted as part of the City ~~(or County)~~ transportation system.

- I. The placement of utilities shall be coordinated as much as possible with the placement of private roads and public rights-of-way.
- J. Utility easements having a minimum width of eight feet shall serve each interior lot. Utility easements shall be located outside private access easements and dedicated road rights-of-way unless approved otherwise by the city/~~county~~ engineer. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008).

15.09.110 Reasonable accommodations process.

A. Purpose. This chapter has been enacted to authorize the director of community ~~and economic~~ development or his designee to waive or vary provisions of the code when necessary to reasonably accommodate the statutory rights of the disabled under the Americans With Disabilities Act (ADA), the Fair Housing Act (FHA) or the Washington Law Against Discrimination (WLAD). This process shall be interpreted and administered in order to ensure the full exercise and enjoyment of a disabled person's right to the residential housing of his/her choosing. The provisions of this chapter shall apply to commercial and may apply to some residential activities or zones; provided, that nothing herein shall be interpreted to limit the exercise of a disabled person's rights by or through a residential care provider. In the event of any conflict or if an interpretation of this chapter is required, it shall be implemented and interpreted in accordance with the provisions of the Americans With Disabilities Act, the Fair Housing Act and the Washington Law Against Discrimination.

- B. Reasonable Accommodations.

1. Upon the application of a disabled person or individual or entity providing services to the disabled in a residential facility or other group living arrangement, the director of community ~~and economic~~ development or his designee is hereby authorized to vary, modify, or waive the provisions of the Yakima Municipal Code, including the provisions of YMC Titles 10, 11 and 15, in order to provide a reasonable accommodation as necessary to provide to a disabled person's or care provider to the disabled's full enjoyment of a residence.
2. The city's duty to accommodate is an affirmative one, and the director of community ~~and economic~~ development is thereby authorized to provide accommodations in a thoughtful and proactive manner.
3. The following review may, at the director of community ~~and economic~~ development's discretion, include citizen input into the administrative process. The director of community ~~and economic~~ development shall provide written notice of the accommodation to the applicant and property owners within five hundred feet of the subject site.
4. When applying this reasonable accommodation process to the Yakima Municipal Code, including the State Building Code and other codes adopted pursuant to Yakima Municipal Code, the staff shall avoid the stereotypical assumptions regarding the disabled and shall attempt to ascertain the actual physical and/or mental limitation of the disabled individual in order to craft an accommodation which best suits the exercise of that individual's rights.

C. **Waiver of Building Code Requirements.** No reasonable accommodation shall be provided by a waiver or variance of the provisions of the codes adopted pursuant to YMC Titles 10, 11 and 15, which does not substantially accomplish the purposes of those titles or which would reduce the fire safety of any structure. Modifications, waivers, or variances of the provisions of International Building Code, International Fire Code, and other codes adopted pursuant to YMC Titles 10 and 11 shall provide at least the same level of safety required by the respective Washington State Code. The applicant shall have the burden of establishing that the proposed modification, waiver, or variance accomplishes substantially the same purpose without reduction of fire safety.

D. **Accommodations Personal to the Applicant.** The accommodation provided shall be personal to the applicant and shall not run with the land; provided, that a change in a residential structure necessary to accommodate the operation of a residential care provider to the disabled may be continued by future operations of similar facilities at the site who established the same use within six months of the date the prior use by the disabled person or residential care provider ceases. The director of community ~~and economic~~ development may direct that any physical change in the structure which would otherwise be illegal under the use or bulk requirements of YMC Title 15, Yakima Urban Area Zoning Ordinance, be brought into compliance six months after the date of sale or transfer of a residential structure to a person or entity not qualifying for the protections of the ADA, FHA, and WLAD.

E. **Appeal.** Interested persons, that are persons located within five hundred feet of the building site, may appeal the reasonable accommodation by filing a petition for review with Yakima County superior court within ten days of the date of mailing of the notice of decision. (Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009: Ord. 2008-46 § 1 (part), 2008).

15.09.120 Community garden development standards.

A. **Purpose.** The purpose of this section is to establish minimal development standards for community gardens which allow private groups or neighborhoods to use privately or publicly owned lands to establish a garden for the cultivation of fruits, vegetables, plants, flowers, or herbs that is maintained by the group members who may or may not have ownership in the subject property. These standards are intended to assure that the established community gardens are compatible with adjoining land uses, the character of the district in which they are located, and will not otherwise have any unmitigated negative environmental impacts.

B. **Review Process.** Community gardens shall follow either the Type (1) or Type (2) review processes as specified by YMC Chapters 15.13 and 15.14, and 15.04 Table 4-1, Permitted Land Uses.

C. **Additional Type (1) and (2) Review Submittal Requirements for Community Gardens.** Applications for community gardens shall include, but are not limited to, a "memorandum of understanding (MOU)" or "agreement" between the city and applicant, which includes the following elements:

1. Right of operating/use agreement, between the property owner and sponsoring organization, which includes: term of use, location and size of planting area(s), and supporting uses and/or structures. These items shall be shown on a site plan that meets the requirements of the site plan checklist, specified in YMC Chapter 15.11.

a. The term of the above required right of operating/use agreement shall be a minimum of one year; however, none of the implementing regulations which govern community gardens shall prevent an applicant from submitting an agreement with a term that extends beyond this minimum requirement;

2. Sponsoring organization name, contact information, etc.;

3. Rules established for the prohibition of selling goods and produce grown on site: i.e., produce grown on site may not be sold;

4. Rules established for the use of herbicides, pesticides, and chemical fertilizers should be contained on site, and used in accordance with label instructions and generally accepted horticultural practices;

5. Maintenance procedures and regulations established for the control of weeds, garbage, standing water, odors associated with composting, the identification of how garden waste will be dealt with (on-site composting or hauled away), and the proposed winterization of the garden;

6. Water/irrigation: indication of method of providing water (i.e., certificate of availability), and indication of water runoff prevention;

7. Rules established for the use of equipment/tools, sheds (storage of hazardous materials, i.e., fertilizers), and other structures;

8. Hours of operation which conform to the provisions of YMC 6.04.180(E) in terms of hours of operation, and intensity of noise.

D. Required Parking.

1. Total Number of Required Parking Spaces. The total number of required parking spaces for each type of community garden shall be as follows:

a) Community gardens (accessory to an approved principal use): none.

b) Community gardens (with planting area of one-quarter acre or less): none.

c) Community gardens (with planting area of more than one-quarter acre and up to one-half acre): two spaces.

d) Community gardens (with planting area of more than one-half acre up to one acre): four spaces.

2. Surfacing. Required parking for community gardens shall consist of an unpaved surface of compacted gravel.

3. Dimensions. The area of each parking space shall be no smaller than nine feet by nineteen feet.

4. Shared Parking. Community gardens may share parking with a nearby use/business in accordance with YMC 15.06.050.

5. Administrative Adjustment of Parking Authorized. Notwithstanding any contrary provision in Chapter 15.10 YMC, the total number of parking spaces for community gardens may be administratively adjusted under the provisions of YMC Chapter 15.10, as the parking standards for community gardens are codified under both the provisions of YMC Chapters 15.06 and 15.09.

E. Accessory Structures. Accessory structures for community gardens are permitted as an accessory use to a community garden or as otherwise permitted under the provisions of YMC 15.04.060, and as described below:

- a) Community gardens (accessory to an approved principal use):
 - a. Accessory structures one hundred twenty square feet or less are permitted in accordance with YMC 15.05.020(E)(2).
- b) Community gardens (with planting area of one-quarter acre up to one acre):
 - a. Accessory structures one hundred twenty square feet or less are permitted in accordance with YMC 15.05.020(E)(2); and
 - b. Accessory structures larger than one hundred twenty square feet are permitted in accordance with YMC 15.05.020(E)(1) and building permit issuance. (Ord. 2014-030 § 4, 2014).

15.09.200 Adult business.

A. Purpose. All adult business uses shall comply with the requirements of this section. The purpose and intent of requiring standards for adult business uses is to mitigate the adverse secondary effects caused by such facilities and to maintain compatibility with other land uses and services. In furtherance of this purpose, this section is intended to regulate the location of adult entertainment and commercial enterprises in order to promote the health, safety and welfare of all citizens and in order to preserve and protect the quality of life in and around all neighborhoods through effective land use planning and reasonable regulation in light of the findings set forth herein and the facts and evidence contained in the legislative record.

The standards established in this section shall apply to all adult business uses. Adult business uses are recognized as having objectionable operational characteristics, particularly when they are aggregated in one area. Since these uses have a harmful effect upon adjacent uses, and residential and commercial uses in particular, special regulation of adult business uses is necessary to avoid adverse effects arising from adult businesses so they will not contribute to the blighting or downgrading of the surrounding neighborhood. It is the intent of this section to allow these uses to exist in a dispersed manner within specific zoning districts.

The standards established in this section shall not be construed to restrict or prohibit the following activities or products: plays, operas, musicals, or other dramatic works; classes, seminars or lectures for educational or scientific purposes; nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities; nudity within a hospital, clinic or other similar medical facility for health-related purposes; and all movies and videos that are rated G, PG, PG-13, R and NC-17 by the Motion Picture Association of America.

B. Special Definitions Specific to This Section. For the purpose of this section, the following words and phrases shall have the following meanings:

1. "Administrative official" means the director of the community development department of the city.
2. "Adult arcade/viewing booth" means any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting adult media for observation by patrons therein. This definition does not apply to a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than six hundred square feet. Those greater than six hundred square feet shall be considered an adult motion picture theater.
3. "Adult business uses" means any uses on premises to which the adult public, patrons or members are invited or admitted or wherein any employee or other person provides, exhibits or performs adult entertainment or operates an adult commercial establishment, to or for a member of the adult public, a patron or a member, and specifically includes the list below:
 - a. Adult commercial establishments;
 - b. Adult motion picture theaters;

- c. Adult arcades/viewing booths;
- d. Adult cabarets, dance halls and dance studios.

Also refer to specific prohibited uses identified in subsection E of this section.

4. “Adult cabaret/dance hall” or “dance studio” means a building or portion of a building regularly featuring dancing or other live adult entertainment if the dancing or entertainment provided is distinguished or characterized by an emphasis on the exhibiting of specified sexual activities or specified anatomical areas for observation by patrons therein (YMC Chapter 5.30).
5. “Adult commercial establishment” means any premises on or where adult media or sexually oriented toys or novelties are the majority of articles or items for sale and/or rent. Majority shall be determined to exist when forty percent or more of the establishment’s gross public floor area is devoted to adult media or sexually oriented toys or novelties. Commercial establishments where the sale and/or rent of adult media or sexually oriented toys or novelties do not account for forty percent or more of the establishment’s gross public floor area shall adhere to the standards set forth in subsection (C)(2) of this section.
6. “Adult entertainment” means any exhibition or dance of any type, pantomime, modeling or any other performance, including motion pictures, which involves the exposure to view of any specified anatomical areas or involves any specified sexual activities.
7. “Adult media” means magazines, books, videotapes, movies, slides, CD-ROMs or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities.
8. “Adult motion picture theater” means an establishment emphasizing or predominantly showing movies that exhibit specified sexual activities.
9. “Body studio” means any premises, other than a licensed massage parlor, reducing salon, health spa or public bath house, upon which is furnished, or which is offered to be furnished, for a fee or charge or other like consideration, the opportunity or act of painting, massaging, feeling, handling or touching the unclothed body or any unclothed portion of the body of another person, or to observe, view or photograph any such activity.
10. Church. See definition in YMC 15.02.020.
11. “City” means the city of Yakima.
12. “Department” means the community development department of the city.
13. “Escort and introductory service” means services provided with the intent to perform prohibited specified sexual activities, specified sexual exhibitions or other activities prohibited in this section.
14. “Massage parlor” means a commercial establishment in which massage or other touching of the human body is provided for a fee and which excludes any person by virtue of age or sex from all or any portion of the premises in which such service is provided.
15. “Media” means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes, but is not limited to, books, newspapers, magazines, movies, videos, sound recordings, CD-ROMs, other magnetic media, and undeveloped pictures.
16. Park. See definition in YMC 15.02.020.
17. “Residential zoning district” means the suburban residential (SR); single-family residential (R-1); two-family residential (R-2); and multifamily residential (R-3) zoning districts as defined in YMC Chapter 15.03.

18. School. See definition in YMC 15.02.020.

19. “Sexually oriented toys or novelties” means instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to simulate human genital organs.

20. “Specified anatomical areas” means (1) less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

21. “Specified sexual activities” means human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

22. “Specified sexual exhibitions” means any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

C. Permitted Uses. Adult business uses shall be permitted subject to the following conditions:

1. Subject to the provisions of this code and compliance with the development standards of this section, adult business uses shall be considered permitted uses, in and only in the M-1 (light industrial) zoning district. Adult business uses are prohibited in all other zoning districts.

2. Commercial uses approved for zoning requirements of Chapters 15.04 through 15.08 that sell and/or rent adult media or sexually oriented toys or novelties, but for which that portion of the establishment’s gross public floor area devoted to the sale or rent of adult media or sexually oriented toys or novelties accounts for less than forty percent of gross public floor area of the commercial use shall:

- a. Restrict persons under the age of eighteen from purchasing and/or renting the adult items; and
- b. Contain those adult items in a separate area appropriately sited and signed to restrict access to people under the age of eighteen, or behind a counter.

D. Development Standards. The following standards shall apply to proposed adult business uses, permitted under this section:

1. Adult business uses shall adhere to the following standards:

a. Separation Standards.

1. The parcel that contains the adult business use, and the signs relating to the use, shall not be located within eight hundred feet of any of the following preexisting uses or previously established districts:

- a. The outside boundary of any parcel that contains a public school, private school or day care facility;
- b. The outside boundary of any parcel that contains a church or other house of worship;
- c. The outside boundary of an existing public park;
- d. The outside boundary of any parcel that contains a public library;

- e. A residential zoning district; and
 - f. The boundary of any city adjacent to the City of Yakima.
2. The parcel that contains an adult entertainment use shall not be located within one thousand five hundred feet of a parcel supporting a similar adult entertainment use as defined in this section, whether such similar use is located within or outside the city limits.
 3. The general site-screening requirements of YMC Chapter 15.07 shall apply.
 4. The separation requirements stated in subsections (D)(1)(a)(1)(a) through (e) and (D)(1)(a)(2) of this section shall be measured by extending a straight line from the nearest point on the property line of the parcel containing the proposed adult entertainment use to the nearest point on the property line of the parcel containing the other adult entertainment use, school, day care, church, public park, or public library.
- b. Licensing. All adult business uses, with the exception of adult commercial establishments, shall be subject to the licensing requirements of YMC Chapter 5.30.
- c. Hours of Operation. Any adult business use, as defined in this section, shall not conduct or operate any business or commercial function on or around their premises between the hours of two a.m. and ten a.m. of the same day.
- d. Signage. Signage of adult business uses, as defined in this section, shall comply with the provisions of YMC Chapter 15.08, Signs, together with the following specific conditions:
1. Each adult business use shall be allowed one on-premises sign which shall be limited to displaying the name of the establishment, the street address, the days and hours of operation, restrictions on the age of persons that may be admitted to the building and the nonspecific identification of the nature of the stock-in-trade or entertainment offered therein (e.g., “adult toys,” “adult books”). Nowhere on the signage or on the building visible to outside passersby shall appear any verbiage, insignias, pictures, drawings or other descriptions suggestive of sexual acts or actions, or which represent the sexually oriented material and/or performances of the adult entertainment use.
 2. In accordance with YMC 5.30.040(C), adult entertainment establishments shall conspicuously post a readable sign at or near each public entrance which clearly states, and is printed in letters at least one inch tall, and reads:

THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED BY THE CITY OF YAKIMA. ENTERTAINERS ARE:

- A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT;**
- B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE;**
- C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE;**
- D. NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA.**

This sign shall not, for purposes of administration of this section, limit the allowed use from having one on-premises sign as indicated in subsection (D)(1)(d) of this section. Adult commercial establishments do not need to comply with this standard.

- e. Parking. The parking standards in YMC Chapter 15.06 shall apply to all off-street parking for uses under this section.

f. Design Standards. Adult business uses shall conform to the following design standards:

1. Buildings, fences, or other structures which are visible from any public right-of-way shall be of a neutral coloring and design scheme, similar to surrounding commercial facilities.
2. All windows, entries, and other openings shall be screened and/or covered in such a way that no business activity associated with adult entertainment uses, other than approved outside signage, shall otherwise be visible from any public right-of-way or other public space.

E. Prohibited Uses. Adult uses not included in the definition of “adult business uses” pursuant to subsection (B)(3) of this section are prohibited. Prohibited activities include, but are not limited to, massage parlors, escort and introductory services, body studios and specified sexual activities and exhibitions not specifically allowed under the definition of “adult business uses.”

F. Nonconforming Uses. Any adult business use or specified sexual activity/exhibition legally in operation on the effective date of the ordinance codified in this section shall be permitted to continue; provided, that all adult business development standards set forth in this section, with the exception of the separation standards from subsection D of this section, are complied with. Any adult business use preexisting upon the effective date of the ordinance codified in this section meeting all development standards, except said separation standards, shall not be considered nonconforming and shall be allowed to remain as a legally established business. The existing business which operates twenty-four hours per day shall be allowed to continue; provided, that any application for expansion, addition or relocation, after the effective date of the ordinance codified in this section, shall be subject to the review requirements of this section. A protected use specified in subsection (D)(1)(a)(1)(a) through (e) of this section shall not benefit from the separation requirements of this section if the protected use chooses to locate within five hundred feet of a lawfully located and licensed adult business use after the effective date of the ordinance codified in this section. An adult business facility is lawfully located if it has located within the city in accordance with the requirements of this section.

G. Application—Review—Appeal. The review and appeal procedures set forth below shall be the applicable review and appeal procedures for adult business uses:

1. Development Permit Application. Applications for permits for adult business uses shall be made in writing to the administrative official on forms supplied by the department. A general site plan conforming to the provisions of YMC 15.11.040-030 shall accompany the application. The administrative official may request any other information necessary to clarify the application or determine compliance with, and provide for the enforcement of, this title.
2. Review Procedures. The administrative official shall review all adult business uses for compliance with this title. The administrative official shall notify the applicant of the approval or denial of the application, request additional information, or forward the application to the department for review.
3. Approval. The administrative official shall issue a development permit when it has been determined that:
 - a. The proposed use is a permitted use under this section;
 - b. The proposed development complies with the standards and provisions of this title;
 - c. The proposed development complies with other building and development codes in effect and administered by the administrative official;
 - d. Proposed development complies with traffic engineering standards and policies established by the appropriate jurisdiction to protect the function and satisfactory level of service of arterial and collector streets; and
 - e. Any new improvements or expansions of a structure comply with the standards of this title.

The administrative official may issue a development permit subject to specific conditions in mitigation of environmental impacts and control of hazardous materials, and requiring compliance with development standards.

4. Denial—Conditional Approval. When an application is denied, or when an application is approved with conditions, the administrative official shall state the specific reasons and shall cite the specific chapters and sections of this title upon which denial or conditional approval is based. The administrative official may also refer the applicant to the department to determine if relief from such denial or conditional approval is available through other application.

5. Appeals. Any decision by the administrative official to deny issuance of a permit for an adult business use, or the imposition of conditions in issuance of a permit for an adult business use, may be appealed to the hearing examiner under the provisions of YMC 15.16.030.

H. Should any section, paragraph, sentence, clause or phrase of this chapter or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances. (Ord. 2012-57 § 2 (Exh. A), 2012: Ord. 2010-16 § 13 (part), 2010: Ord. 2009-09 § 1 (part), 2009).

15.09.210 Special requirements for retaining walls.

Retaining walls may be made of any material commonly used for this purpose, such as block, timber, stone or concrete, except that the following materials are prohibited:

1. Materials not manufactured for, or customarily used on, retaining walls.
2. Ecology blocks of any style or design. (Ord. 2013-045 § 2, 2013).

Chapter 15.10

CONDITIONS OF APPROVAL/ADMINISTRATIVE ADJUSTMENT OF STANDARDS

Sections:

- 15.10.010 Purpose.
- 15.10.020 Administrative adjustment of some development standards authorized.
- 15.10.030 Review procedures.
- ~~15.10.030—040~~ Special conditions of approval authorized.
- ~~15.10.040—050~~ Authority to impose special conditions limited in Type (1) review and administrative modification review.

15.10.010 Purpose.

The purpose of this chapter is to specify and outline the authority of the administrative official to impose special conditions of approval on any permit or approval issued under the provisions of this title and to establish the authority of the administrative official to administratively adjust some of the development standards set forth in YMC 15.05.060 and YMC Chapters 15.05 through 15.08. (Ord. 2008-46 § 1 (part), 2008: Ord. 2001-04 § 7, 2001: Ord. 2947 § 1 (part), 1986).

15.10.020 Administrative adjustment of some development standards authorized.

The purpose of this section is to provide flexibility by allowing certain development standards in YMC Chapters 15.05 through 15.08 to be administratively adjusted. A particular standard may be reduced or modified, so long as the administrative official determines that the adjustment and/or reduction is consistent with the intent and purpose of the standards, and will accomplish one or more of the following objectives:

- A. Allow buildings to be sited in a manner which maximizes solar access;
- B. Allow zero lot line or common wall construction in conformance with the provisions;
- C. Coordinate development with adjacent land uses and the physical features;
- D. Permit flexibility in the design and placement of structures and other site improvements that is the minimum adjustment necessary to accommodate the proposed structure or site improvement; or
- E. Allow development consistent with a specific subarea plan adopted by the appropriate jurisdiction.

Administrative adjustments of development standards shall be processed under the provisions for modifications ~~as contained in YMC Chapter 15.17~~ for all Class (1) and Class (2) uses which meet the provisions of YMC § 15.17.20, and under Type (3) review for Class (3) uses.

The administrative official shall not have the authority to reduce the site design requirements for minimum lot size, building height, or subdivision requirements set forth in YMC 15.05.030 and Table 5-2, or YMC 15.05.060. (Ord. 2011-12 § 6, 2011: Ord. 2008-46 § 1 (part), 2008: Ord. 95-13 § 7, 1995; Ord. 3106 § 22, 1988: Ord. 3019 § 39, 1987: Ord. 2947 § 1 (part), 1986).

15.10.030 Review procedures.

Upon receipt of an application for an Administrative Adjustment, the administrative official shall review the application as follows:

- A. Determination of completeness. Within twenty-eight days after receiving a project permit application, the city shall mail or provide in person a written determination to the applicant which states:
 - a. That the application is complete or that the application is incomplete and what is necessary to make the application complete; and

- b. To the extent known by the city, the identity of other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application (YMC § 16.04.010). (Ord. 98-66 § 1 (part), 1998).
- B. Request for additional information. The administrative official may request any additional information necessary to clarify the application or determine compliance with the provisions of this title in accordance with YMC 16.04.020 .Incomplete application. If the city determines an application is not complete, the city shall follow the procedures of YMC 16.04.030. Within fourteen days following receipt of the requested information, the city shall determine whether or not the application is then complete for processing according to the provisions of YMC 16.04.030.
- C. Notification of Adjacent Property Owners. A notice of application shall be provided to all applicants, designated contact persons, and property owners within three hundred feet of the exterior boundaries of the development site. The notice of application will follow the notice requirements of Yakima Municipal Code Chapter 16.05 and may be either a postcard format or letter size paper.
- The administrative official may also, but is not required to, solicit comments from any other person or public agency the administrative official feels may be affected by the proposal.
- D. Administrator’s Decision. After considering any comments received from other agencies, jurisdictions, or adjoining property owners, the administrative official shall issue a notice of decision for the applicant’s administrative adjustment application and site plan in accordance with YMC Ch. 16.07.
- E. Conditional Approval. The administrative official may attach conditions to his or her approval in order to assure the development is consistent with the intent of this title, the zoning district, the development standards, and the other provisions of this title.
- F. Findings and Conclusions. The administrative official shall prepare written findings and conclusions stating the specific reasons, and citing the specific chapters and sections of this title, upon which the administrative official’s decision to approve, approve with conditions, or deny the zoning decision is based. The findings shall demonstrate that the administrative official’s decision complies with the policies of the Yakima urban area comprehensive plan, the intent of the zoning district, and the provisions and standards established herein.

15.10.030040 Special conditions of approval authorized.

- A. The development standards and other conditions for approval specified in this title are not a limitation on the authority of a reviewing official to impose additional or greater requirements as conditions of approval on any use, development, or modification being reviewed. Except as otherwise expressly provided, any reviewing official may impose conditions to:
1. Accomplish the objective and intent of any development standards or criteria for approval set forth in this title;
 2. Mitigate any identified specific or general negative impacts of the development, whether environmental or otherwise;
 3. Ensure compatibility of the development with existing neighboring land uses;
 4. Assure consistency with the intent and character of the zoning district involved; or
 5. Achieve and further the expressed intent, goals, objectives, and policies of the Yakima urban area comprehensive plan and this title.
- B. It is the intent of this title to grant broad authority to impose special conditions to achieve and further the objectives listed above. Such authority shall extend, but not be limited, to the following:

1. Increasing the minimum development standards of this title;
2. Limiting and controlling the dimensions, number, shape, and location of structures, including fences, signs, and buildings;
3. Regulating the number and location of vehicular access points;
4. Requiring the dedication of additional rights-of-way for public streets;
5. Requiring the dedication of public use easements and the recording of the same;
6. Regulating the design, manner, and timing of construction of any site improvements;
7. Regulating the hours of operation of any commercial or industrial use;
8. Providing for the maintenance or retention of any regulated site improvement;
9. Requiring and designating the location and size of open space; and
10. Reclamation of any site after discontinuance of use or expiration or revocation of a permit. (Ord. 2008-46 § 1 (part), 2008; Ord. 2947 § 1 (part), 1986).

15.10.04050 Authority to impose special conditions limited in Type (1) review and administrative modification review.

Unless specifically granted in some other provision of this title, the authority of the administrative official to impose special conditions of approval during a Type (1) review or an administrative modification (YMC Chapter 15.17) is limited to those which are reasonable and necessary to accomplish the objective and intent of any expressed development standard, or criteria of approval, in this title. This provision shall not prevent the administrative official from denying or conditioning approval of any permit under this title based on the application of:

- A. The State Environmental Policy Act (SEPA); or
- B. Traffic engineering standards and policies established by the appropriate jurisdiction to protect the function and satisfactory level of service of arterial and collector streets. (Ord. 2008-46 § 1 (part), 2008; Ord. 3019 § 40, 1987; Ord. 2947 § 1 (part), 1986).

Chapter 15.11

GENERAL APPLICATION REQUIREMENTS

Sections:

- 15.11.010 Purpose.
- 15.11.020 Application requirements.
- ~~15.11.030 Table of application requirements.~~
- 15.11.040 ~~030~~ General site plan form and contents.
- 15.11.050 ~~040~~ Detailed site plan form and contents.
- 15.11.060 ~~050~~ Preapplication conference.
- 15.11.070 ~~060~~ Filing an application.
- 15.11.080 ~~070~~ Processing applications.
- 15.11.090 ~~080~~ Notice requirements.
- 15.11.100 ~~090~~ Fee schedule and administration.
- 15.11.110 ~~100~~ Master applications.

15.11.010 Purpose.

The purpose of this chapter is to specify the general procedures to be followed when processing applications. Additional procedures for particular types of development review are contained in specific sections of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.11.020 Application requirements.

All applications shall comply with the following requirements:

- A. Applications shall be in writing on forms provided by the department, ~~or, for Class (1) uses, by the administrative official;~~
- B. ~~Applications shall include the information required by Table 11-1, "Application Requirements." Each submitted land use application shall be completed in its entirety, and contain all narratives, supplemental narratives, site plans, or other required attachments as specified by the pertinent application.~~ For Type (1), ~~or (2), or (3)-~~ reviews for developed sites for which there is limited proposed change, the application shall include a general site plan in print or digital form in conformance with YMC 15.11.040~~030~~; provided, the administrative official at their discretion may require additional information to clarify the application or determine compliance with the provisions of this title. For Type (3) review, the application shall include a detailed site plan in conformance with YMC 15.11.050~~040~~;
- C. All applications, including a Type (1) review, shall be signed by the property owner or his agent authorized in writing to do so;
- D. Applications shall be accompanied by the appropriate fee as established by ordinance;
- E. An application is not complete unless it includes all required information, attachments and fees. No application shall be considered officially filed until accepted as complete by the department; and
- F. Applications for Type (2) and (3) reviews shall include a minimum eleven-inch by seventeen-inch reproducible copy of the site plan in print or digital form. ~~If the original site plan is larger than eleven inches by seventeen inches, a minimum of ten additional copies and an eleven-inch by seventeen-inch copy of the site plan shall be required.~~ In the event of expanded review, additional copies may be required at the applicant's expense. Site plans shall be developed in accordance with YMC 15.11.040~~030~~ or 15.11.050~~040~~, as applicable. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 45, 1993: Ord. 3245 § 2, 1990: Ord. 2947 § 1 (part), 1986).

~~15.11.030 Table of application requirements.~~

~~Table 11-1 lists the general information required for each type of application. Individual chapters of this title may contain additional information required for a particular type of application.~~

Table 11-1. Notice Requirements

	<u>Notice of Application</u>	<u>Notice of Hearing Examiner or Yakima Planning Commission Public Hearing</u>	<u>Notice of Recommendation /Decision</u>	<u>City Council Hearing</u>
<u>Type (1) Review</u>	(Not Required)	(Not Required)	Notice of Decision • Applicant	(Not Required)
<u>Type (2) Review</u>	<ul style="list-style-type: none"> • Applicant • Property owners within 300-foot radius • City In-house Distribution List 	(Not Required)	Notice of Decision • Parties/agencies who received the Notice of Application • Any additional parties of record	(Not Required)
<u>Type (3) Review</u>	<ul style="list-style-type: none"> • Applicant • Parties of Record • Property owners within 300-foot radius • City In-house Distribution List • <i>Posting is required prior to issuance of notice</i> 	(at least 20 days prior to hearing) <ul style="list-style-type: none"> • Applicant • Parties/agencies who received the Notice of Application • Any additional parties of record • Local Media • Hearing Examiner or Yakima Planning Commission • Publish legal ad in the newspaper 	Notice of Decision (mail 3 days after it is rendered) <ul style="list-style-type: none"> • Certified mail to applicant • Regular mail to parties and agencies who received the Notice of Application • Any additional parties of record 	(Not Required)
<u>Appeals</u> <i>For SEPA appeal see YMC Ch. 6.88</i>	<u>Notice of Appeal of Administrative Official’s Decision & Public Hearing</u> <ul style="list-style-type: none"> • Appellant • The official whose decision is being appealed • Parties/agencies who received the Notice of Application • <i>Posting property and publishing a legal ad is required</i> <u>Notice of Appeal of Hearing Examiner’s Decision</u> <ul style="list-style-type: none"> • Appellant • The official whose decision is being appealed • Parties and agencies who received the Notice of Application 	See Notice of Application	<u>Notice of Hearing Examiner’s Decision</u> <ul style="list-style-type: none"> • Certified mail to applicant • Regular mail to parties and agencies who received the Notice of Application • Any additional parties of record 	<ul style="list-style-type: none"> • City Clerk will publish legal ad and send notice to the following: - Appellant - Official whose decision is being appealed - Hearing Examiner - Parties and agencies who received the Notice of Application - Any additional parties of record

<u>Cell Tower</u>	<u>See YMC 15.29.040 Table 29-1</u>			
<u>Planned Development</u>	<ul style="list-style-type: none"> • <u>Applicant</u> • <u>Property owners within 300-foot radius</u> • <u>City In-house Distribution List</u> • <u>Posting is required prior to issuance of notice</u> 	<p>(at least 20 days prior to hearing)</p> <ul style="list-style-type: none"> • <u>Applicant</u> • <u>Parties/agencies who received the Notice of Application</u> • <u>Any additional parties of record</u> • <u>Local Media</u> • <u>Hearing Examiner or Yakima Planning Commission</u> • <u>Publish legal ad in the newspaper</u> 	<p><u>Notice of Recommendation</u></p> <ul style="list-style-type: none"> • <u>Regular mail to applicant and parties of record</u> <p><u>Notice of Decision</u></p> <ul style="list-style-type: none"> • <u>Applicant receives cover letter with ordinance if approved or Council’s findings if denied.</u> 	<ul style="list-style-type: none"> • <u>City Clerk will publish legal ad and send notice to the following:</u> <ul style="list-style-type: none"> - <u>Applicant</u> - <u>Parties/agencies who received the Notice of Application</u> - <u>Any additional parties of record</u>
<u>Rezone</u>	<ul style="list-style-type: none"> • <u>Applicant</u> • <u>Property owners within 300-foot radius</u> • <u>City In-house Distribution List</u> • <u>Posting is required prior to issuance of notice</u> 	<p>(at least 20 days prior to hearing)</p> <ul style="list-style-type: none"> • <u>Applicant</u> • <u>Parties/agencies who received the Notice of Application</u> • <u>Any additional parties of record</u> • <u>Local Media</u> • <u>Hearing Examiner or Yakima Planning Commission</u> • <u>Publish legal ad in the newspaper</u> 	<p><u>Notice of Recommendation</u></p> <ul style="list-style-type: none"> • <u>Regular mail to applicant and parties of record</u> <p><u>Notice of Decision</u></p> <ul style="list-style-type: none"> • <u>Applicant receives cover letter with ordinance if approved or Council’s findings if denied.</u> 	<ul style="list-style-type: none"> • <u>City Clerk will publish legal ad in the newspaper and send notice to the following:</u> <ul style="list-style-type: none"> - <u>Applicant</u> - <u>Parties/agencies who received the Notice of Application</u> - <u>Any additional parties of record</u>
<u>Comprehensive Plan Amendment</u>	<u>See YMC Ch. 16.10</u>			
<u>Right-of-Way Vacation</u>	<u>See RCW 35.79</u>			
<u>SEPA</u>	<u>See YMC Ch. 6.88</u>			
<u>Shoreline</u>	<u>See YMC Ch. 17.13 and WAC 173-27-110</u>			
<u>Subdivisions</u>	<u>See YMC Title 14 and RCW 58.17</u>			

Per YMC 15.01.060, in the case of conflicts between the text, maps and tables of this title, the text shall govern unless otherwise stated. Notice requirements for master applications will vary.

Table 11-1. Application Requirements-

R—Required with Application - M—May Be Required	Permit Applications for							
	Type- (1)- Review	Type- (2)- Review	Type- (3)- Review	Appeal	Development Modification	Variance	Nonconforming	Rezone
Name, address, phone number	R	R	R	R	R	R	R	R
Signature of property owner	R	R	R	R	R	R	R	R
Signature of applicant	R	R	R	R	R	R	R	R
Yakima County taxation parcel number and legal description	R	R	R	R	R	R	R	R
Description of proposed action	R	R	R	R	R	R	R	R
Size of subject property	R	R	R	-	M	M	R	R
SEPA checklist (when required)	M	M	M	-	M	-	M	R
Applicant fee	R	R	R	R	R	R	R	R
General site plan (YMC 15.11.040)	R	-	-	-	R	R	-	-
Detailed site plan (YMC 15.11.050)	-	R	R	-	M	-	R	R
Explanation of any adjustment sought from the standards of this title	M	M	M	M	R	R	R	R
Draft of any proposed covenants, restrictions and easements	-	M	R	-	-	-	-	-
Citation of the action being appealed (YMC 15.16.030)	-	-	-	R	-	-	-	-

(Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.11.04030 General site plan form and contents.

A. General Site Plan Form. All general site plans shall be drawn to scale and be legibly drawn, ~~or prepared, or printed on paper in a reproducible printed or digital form.~~ Unless otherwise requested or authorized by the administrative official, the paper size for Type (1) review shall be eight and one-half inches by eleven inches and, for Type (2) review, eleven inches by seventeen inches. The scale of the drawing shall be a standard engineering scale and shall reasonably utilize the paper's-media's size.

B. General Site Plan Contents. The general site plan shall include the legal description of the land; north arrow and scale of drawing; name of applicant and project name; actual dimensions and shape of the lot to be built upon; the sizes and location of existing structures on the lot to the nearest foot; the location and dimensions of proposed structures and uses; the size and location of utilities, parking circulation plan, proposed landscaping and sitescreening; and the location of ingress and egress. The site plan shall also include any other information required by the department or administrative official to clarify the proposal, assess its impacts, or determine compliance with this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.11.05040 Detailed site plan form and contents.

A. Detailed Site Plan Form. All detailed site plans shall be ~~drawn to scale and be~~ legibly drawn to scale, and be prepared in a reproducible printed or digital form ~~prepared, or printed on paper.~~ Unless otherwise requested or authorized by the department, the paper size shall be eleven inches by seventeen inches or larger. The scale of the drawing shall be a standard engineering scale and shall reasonably utilize the paper's-media's size. Where necessary, the plan may be on several sheets accompanied by an index sheet showing the entire site.

B. Detailed Site Plan Contents. The detailed site plan shall show the following where applicable:

1. The boundaries of the site;
2. Names and dimensions of all existing streets bounding or touching the site;
3. The location, shape, size, height, and types of all existing and proposed structures and the boundary lines of all proposed and existing lots, tracts, and easements;
4. Proposed location and dimension of “common open space”;
5. Existing and proposed utilities, streets, access easements, and dedication of property;
6. Location, dimension, and design of off-street parking facilities, showing points of ingress to and egress from the site;
7. All major physiographic features, such as railroads, drainage canals, and shorelines, on or abutting the site;
8. Existing topographic contours at intervals of not more than five feet, together with proposed grading and drainage plans;
9. Proposed land uses and densities;
10. Pedestrian and vehicular circulation patterns;
11. Existing and proposed landscaping and sitescreening;
12. Existing sewer lines, water mains, and other underground facilities within and adjacent to the development;
13. Proposed sewer or other waste disposal facilities, water mains and other underground utilities;
14. The location of structures on the adjoining lots;
15. A comprehensive sign plan meeting the requirements of YMC 15.08.170(A);
16. Analysis of soil and geological conditions; and
17. Any other information specified by the administrative official, such as:
 - a. Proposed ownership pattern;
 - b. Operation and maintenance proposals (i.e., homeowner’s association, condominium, co-op or other);
 - c. Solid waste disposal facilities;
 - d. Lighting;
 - e. Water supply;
 - f. Public transportation;
 - g. Community facilities;
 - h. General timetable of development;
 - i. Floodproofing or other measures to protect against flooding; and
 - j. Information on design methods to conserve energy.

- C. A detailed site plan for development in the floodplain overlay shall also include the following information:
1. Elevation in relation to the one-hundred-year flood level of the lowest floor (including basement) of all structures;
 2. Elevation in relation to mean sea level of any structure that has been floodproofed;
 3. Certification by a registered professional engineer or architect that established floodproofing standards have been met; ~~and~~
 4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development-; and
 5. Any other site plan requirements identified in YMC Ch. 15.27 Part Four (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.11.06050 Preapplication conference.

Prior to submitting an application, the applicant may arrange a conference with the department to review the proposed action, to become familiar with the policies, plans and development requirements of the Yakima urban growth area and to coordinate all necessary permits and procedures. Preapplication conferences are mandatory for all institutional overlay and master planned development applications. Any information or opinions expressed by the department staff shall not be binding on the administrative official or constitute approval of the project. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.11.07060 Filing an application.

All applications for permits, rezones, interpretations, or other approvals or action required or authorized under this title shall be filed with the department; ~~except that, applications for Class (1) uses or modifications to approved Class (1) uses shall be made directly to the administrative official.~~ Any required site plans shall accompany the application. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.11.08070 Processing applications.

Upon receipt of an application or upon referral of an application by the administrative official, the department shall proceed as follows:

- ~~A.~~ A.—The application shall be reviewed for completeness within twenty-eight days after receiving an application in accordance with YMC 16.04.010; If additional information is required, the application shall be referred back to the applicant in accordance with YMC 16.04.020; If the application is incomplete, the applicant shall be provided with an explanation of what is necessary to make the application complete in accordance with YMC 16.04.030; ~~and~~ and if accepted as complete, the department shall begin processing the application in accordance with this chapter, and Title 16 Administration of Development Permit Regulations;
- B. File Closure: In the event that the applicant/property owner does not provide the City of Yakima Planning Division within 30 days of mailing of the letter of incomplete application, either the requested information or a written correspondence indicating when the requested information will be provided, the Planning Division shall send a letter of file closure to the applicant. The letter of file closure shall be sent to the property owner of record and applicant indicating that “the file has been closed due to inactivity, ~~any~~ and any further processing of the application will require resubmission of the application and payment of the applicable application fee.” In addition, any application which is inactive (meaning that the Planning Division has not received written correspondence from the applicant which provides the required information) for more than 90 days shall be deemed null and void, and shall not require issuance of a letter of file closure.
- ~~A.C.~~ B.—If more than one permit, approval, or action under this title is required, the department shall refer the application back to the applicant for consideration of a master application under YMC 15.11.110§ 16.03.010(B) or withdrawal of the application. If no response is received within seven days, the department shall determine the order of processing and forward the application to the appropriate administrative official;

- ~~D. C.~~—A complete application shall be reviewed by the department and, if State Environmental Policy Act (SEPA) review is required, ~~referred to the designated SEPA responsible official for SEPA review~~ under the provisions of WAC Chapter 197-11, the project permits shall be integrated and shall be processed concurrently with the permit procedures of YMC Title 16. ~~No action, approval or permit shall be issued on the proposal until SEPA review is complete;~~
- ~~B.E.~~ The department shall be responsible for providing appropriate public notice for all land use applications and hearings which conforms to the statute or ordinance governing the application as specified in YMC Ch. 16.05;
- ~~C. D.~~— Upon completion of SEPA review, the department shall forward the application; related SEPA documents, if any; and a written report on the proposal, if any, to the appropriate administrative official;
- ~~D. E.~~— The department shall have a maximum of seven days to review the completed application and refer it to the appropriate administrative official, ~~excluding any time spent in SEPA review;~~
- ~~E. F.~~— The department shall be responsible for assigning a date and assuring due notice of public hearing for each application requiring review by the hearing examiner. The date and notice shall conform to the statute or ordinance governing the application;
- ~~F. G.~~— Upon final action and decision, the administrative official or legislative body shall transmit its findings and decision to the department; and
- ~~F.~~ Upon completion of all required comment periods and SEPA review for permit applications:
- ~~a.~~ Not Requiring a Public Hearing: The City of Yakima Administrative and SEPA Responsible Official(s) shall concurrently issue their SEPA determination, and notice of decision on the underlying land use application in accordance with YMC 16.07.010 - .040.
 - ~~b.~~ Hearing Required: The City of Yakima Administrative and SEPA Responsible Official(s) shall issue their SEPA determination at least 20 days prior to the open record hearing (YMC 16.06.050), and the recommendation on the underlying land use application shall be provided to the hearing examiner, mailed to the applicant, and made available for public inspection no later than seven days prior to the public hearing (YMC 15.15.040).
- ~~a.G. H.~~—If the decision of the administrative official or legislative body is for approval, not appealed, and if all other permits, approvals, or actions required under this title have been secured, the applicant's decision and final approved site plan ~~department shall issue serve as a the certificate of zoning review final.~~ This certificate of zoning review shall be sent to the department as authority for issuance of an actual development permit. The certificate of zoning review is official indication of compliance with this title only, and shall not relieve any person from requirements of other laws or ordinances; nor shall it authorize the department to issue a development permit without compliance with other duties or review required by administrative official by law. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 41, 1987: Ord. 2947 § 1 (part), 1986).

15.11.090080 Notice requirements.

~~A. Table 11-2—Notice Requirements. Applications for permits, approvals, or actions listed in Table 11-2, Notice Requirements, shall be decided after based upon compliance with the notice requirements set forth therein. Table 11-2 may require more than one type of notice for some applications. Other notice requirements are contained in the provisions of this title dealing with the particular types of permits, approvals, or other actions and shall also be followed that of YMC Ch. 16.05. In case of conflict between other provisions in this title and Table 11-2/Title 16, the most lengthy and greatest notice requirement shall apply. If no notice is required in either Table 11-2 or the written provisions of this title, none shall be provided. The notice of application will follow the notice requirements of Yakima Municipal Code Chapter 16.05 and may be either a postcard format or letter size paper.~~

~~Table 11-2. Notice Requirements~~

NOTICE REQUIREMENTS	APPLICATIONS FOR...
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		Class (1)- (1)	Class (2)- (2)	Class (3)- (3)	Appeal	Administrative Modification- to- Development	Variiances	Interpretation(s)	Rezones
When- Required	Mailed after Preliminary Decision for Approval by Administrative Official		X	-	-		-		-
	Mailing/Publication/Posting at Least Twelve Days Prior to Public Hearing		-	X	X		X		X
1st Class- Mailing	To Parties of Record	NOTICE- NOT- REQUIRED	X	X	X	NOTICE NOT- REQUIRED	X	NOTICE NOT- REQUIRED	X
	To Property Owners Within 300 Feet of the Application Parcel		X	X	-		X		X
Publication	One Legal Notice in Official Newspaper		-	X	-		X		X
Posting	In Compliance with YMC 15.11.090(C) and This Table		-	X	-		-		X

(1) Includes: Class (1) uses, development permits, temporary use permits, and some home occupations.

(2) Includes: Some Class (1) uses, Class (2) uses, permits for temporary hardship units, some home occupations, and some modifications to Class (1) and (2) uses.

(3) Includes: Some Class (2) uses, Class (3) uses, changes from a nonconforming use to another, and some modifications to Class (2) and (3) developments, including administrative adjustment of development standards for Class (3) uses.

B. Responsibility for Notice. The department and/or the City Clerk shall provide all notice requiring first-class mailing or legal publication. When required, the applicant shall post the property in accordance with subsection C of this section.

C. Posting Notice. ~~When required, t~~The applicant shall post the subject property with signs provided by the department for Type (3) Review, Variance, Rezone, Appeal, Interpretation (if required), and all project permit applications requiring State Environmental Policy Act Review as provided for in YMC Title 16. Signs shall be posted on the subject property so as to be clearly seen from each right-of-way providing primary vehicular access to the subject property. The time of posting shall ~~comply with the provisions of Table 11-2~~ occur prior to issuance of notice of application, or as otherwise required by YMC Title 16.

D. Mailing Notice. For purposes of providing legal notice to adjoining property owners, the person or persons shown as the owner on the official records of the Yakima County assessor's office shall be considered the property owner. The notice of application will follow the provisions of Yakima Municipal Code Chapter 16.05. (Ord. 2010-31 § 4, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 (part), 1993: Ord. 2947 § 1 (part), 1986).

15.11.100090 Fee schedule and administration.

The legislative bodies hereby adopt and maintain a current schedule of fees and charges for actions pertaining to this title.

No application, permit or appeal shall be accepted, processed, approved or issued unless and until the applicable fees and charges have been paid in full. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 46, 1993: Ord. 3245 § 1, 1990: Ord. 3106 § 23, 1988: Ord. 3019 § 42, 1987: Ord. 2947 § 1(part), 1986).

15.11.110100 Master applications.

A. Process. Any person proposing a land use project, which would require more than one ~~of the permits or approvals listed in Table 11-1~~, may submit a master application on form(s) provided by the department. The master application shall be processed subject to the highest type of review applicable to any of the required permits or approvals, Type (3) review being higher than Type (2), and Type (2) review being higher than Type (1). For purposes of this section, the administrative official's decisions shall have the following effect:

1. If any of the required approvals constitute a recommendation to the legislative body, the decision of the administrative official as to all such permits or approvals shall constitute a recommendation to the legislative body; and
2. Otherwise, the decision of the administrative official shall be final subject to appeal pursuant to YMC Chapter 15.16.

B. Fees. When two or more zoning applications for the same project are processed as a master application, only the highest fee among the applications submitted shall be charged. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 43, 1987: Ord. 2947 § 1 (part), 1986).

Chapter 15.12

PERMITS

Sections:

- 15.12.010 Purpose.
- 15.12.020 Required permits.
- 15.12.030 Compliance with development permit and ~~certificate of zoning final zoning decision and site review~~ required plan required.
- 15.12.040 Official ~~index record~~ of approvals to be maintained as public record.
- 15.12.050 Final site plans.
- 15.12.060 Expiration and cancellation of development permits and ~~certificates of zoning review~~ zoning decisions.
- 15.12.070 Certificates of occupancy required at discretion of administrative official.
- 15.12.080 Performance assurance.

15.12.010 Purpose.

The purpose of this chapter is to specify the general requirements for permits under this title and to specify certain administrative provisions concerning permits issued under this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.12.020 Required permits.

A. Development Permit. Except as provided in subsection C of this section, no use, development, or modification to use or development, as those terms are defined by this title, may be established, placed, performed, constructed, made or implemented, in whole or in part, without the issuance of a development permit by the administrative official. When a building permit is required, the building permit shall serve as the development permit.

B. ~~Certificate of Zoning Review~~ Final Zoning Decision and Site Plan. No development permit may be issued without the prior issuance of a zoning decision and final site plan by the Administrative Official which shall constitute a certificate of zoning review or a separately issued certificate of zoning review in which the applicable appeal period has not lapsed or any filed appeal has not been resolved. ~~by the department for the proposed development or modification to development indicating that the proposal has been through the review procedures of this title and conforms to its requirements; provided, that proposals for new Class (1) uses and modifications to approved Class (1) uses, which are reviewable under Type (1) review only (YMC Chapter 15.13), do not require a separate certificate of zoning review and may be approved directly by the administrative official. The~~ The zoning decision by the administrative official, or certificate of zoning review issued by the department shall include by reference, or otherwise, any terms and conditions of approval for the project together with any approved final site plan.

C. Exemptions. The following developments and modifications to developments are exempt from the review and permit provisions of this title; provided, they do not involve a required site improvement:

1. Normal structural repair and maintenance;
2. Changes to conforming structures that do not involve structural alterations as that term is defined by this title;
3. Rehabilitation of dwelling units when such rehabilitation does not expand the number of dwelling units nor physically expand the structure;
4. Accessory structures otherwise meeting the specific development standards and requirements of this title and that do not require a building permit under the provisions of the building code ~~as adopted by the~~ appropriate jurisdiction;
5. Exempt signs;
6. Yard sales meeting the requirements in YMC 15.04.090;

7. Alteration to land, including grading and leveling, paving, stockpiling, and excavation, the fair market value of which does not exceed five hundred dollars; and
8. All construction of private or public roads, construction of sewer, electric, and water utilities pursuant to an approved and valid short or long subdivision regulating such improvements.

D. Development Permit—Issuance in Conjunction with Another Permit. If the administrative official is designated and/or authorized to review and issue a permit under the provisions of any other city code or ordinance applicable to the development, he/she may require issuance of the development permit under this title to be issued only in conjunction with that other permit. (Ord. 2008-46 § 1 (part), 2008: Ord. 2005-81 § 5, 2005; Ord. 3106 § 24, 1988; Ord. 3019 § 44, 1987; Ord. 2947 § 1 (part), 1986).

15.12.030 Compliance with development permit and ~~certificate of zoning~~ final zoning decision and site plan review required.

A. Development Permit Compliance Required. Development permits issued on the basis of plans, applications and conditions of approval imposed by the administrative official, and/or on the basis of a ~~certificate of zoning~~ final zoning decision and site plan review, authorize only the use, arrangement, and construction set forth in the approved plans, ~~and~~ application, ~~and certificate of zoning review~~ together with any associated conditions of approval and the final site plan. Any use, arrangement, or construction inconsistent with that authorized is a violation of this title and is punishable as provided in YMC Chapter 15.25.

B. Site Plan Compliance Required. Whenever any detailed or general site plan is required by operation of this title and is part of any approval of development or modification of development, the final site plan shall be binding on all existing or subsequent owners and occupiers of the property. The owner and/or occupier of any property, development, or structure, which is the subject of a final detailed or general site plan, shall be required to maintain the property and development in full compliance with the terms and conditions of the approved final site plan and any associated terms and conditions of approval for the development. Failure to do so shall constitute a violation of this title and is punishable as provided in YMC Chapter 15.25.

C. Site Inspection by the Building Official Authorized. The building official is authorized to perform interim and final inspections of all development and modifications to development to assure that it has been established and/or constructed in conformance with the final site plan and associated terms and conditions of approval. The building official may coordinate such inspections with the inspections required by other applicable codes or ordinances. When the development, as built, conforms to the final site plan, the building official shall so certify on the face of the site plan on file with the appropriate jurisdiction. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.12.040 Official ~~index record~~ for approvals to be maintained as public record.

A. For Type (2) and (3) Approvals. The department shall maintain an official ~~index record~~ of all approved and currently applicable ~~zoning decisions and certificates of zoning review~~ and development permits requiring review and approval by the administrative official and/or hearing examiner. The official ~~index record~~ shall include the application, a copy of the ~~zoning decision, certificate of zoning review~~ and the development permit, together with their associated site plans and the terms and conditions of approval. Such ~~index documents~~ shall constitute an official record and shall be open for public inspection and copying in accordance with the other provisions of law. ~~Such index shall be kept by parcel number so the current applicable provisions of any specific approval issued under this title for such property are available for public inspection and review. Such index may consist of original or certified duplicates of original documents.~~

The department and administrative official shall immediately upon issuance of a ~~zoning decision, certificate of zoning review~~ and development permit place the original or certified duplicate in the official ~~index record~~, noting the date and time of filing of the document ~~in the index~~. The official ~~index record~~ required by this section shall constitute the authority as to the current applicable limitations and requirements pertaining to specific approvals issued under this title and shall constitute constructive notice to third parties of the existence and terms of said approval. The department shall be the official custodian of said ~~index record~~ and is authorized to issue certified copies. Any unauthorized change of any kind by any person to the documents or records in the official ~~index record~~ required by this section shall constitute a violation of this title and be punishable as provided under YMC Chapter 15.25.

~~B.—For Type (1) Approvals. The administrative official shall maintain an official public record of development permits issued under Type (1) review in the same manner and with the same effects as set out in subsection A of this section. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).~~

15.12.050 Final site plans.

A. Final Site Plan Required. A final site plan shall be submitted with all ~~Type 1 review~~ applications, and shall be required as a condition of approval for all ~~Type 2 and 3~~ review applications. The final site plan shall include the items shown on the original site plan and the additions and modifications required by the administrative official.

B. Final Site Plans—Form and Content. All final site plans shall be drawn to scale and be legibly drawn, prepared, or printed by a process guaranteeing a permanent record in black on paper, or equivalent material as required by the department. Unless the department requests or authorizes a different size or scale, the size and scale of the final site plan shall conform to the requirements of YMC 15.11.~~040-030~~ or 15.11.~~050-040~~ as applicable. Where necessary, the final site plan may be on several sheets accompanied by an index sheet showing the entire site plan. (Ord. 2011-12 § 12, 2011: Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 47, 1993; Ord. 3019 § 45, 1987; Ord. 2947 § 1 (part), 1986).

15.12.060 Expiration and cancellation of development permits and ~~certificates of zoning review~~ zoning decisions.

A. ~~Certificate of Zoning Decision Review~~—Expiration. A ~~certificate of zoning review~~ decision in which the appeal period has lapsed without appeal shall automatically expire and terminate when:

1. A new or modified ~~certificate of zoning review~~ decision has been issued for the same parcel or parcels; or
2. A development permit based on the ~~certificate of zoning review~~ decision has not been issued within one year from the date of issuance of the ~~certificate~~ decision; or a time period of not less than one year specified by the administrative official; or
3. The development permit issued on said ~~certificate expires~~ decision, terminates or is cancelled under the provisions of this title.

~~The department shall take steps to cancel any expired certificate of zoning review and note such expiration or cancellation in the official index of approvals. The department shall mail written notice of cancellation to the last known address of the applicant and to the owner of record as shown in the Yakima County assessor's parcel index. Failure to provide such notice shall not affect the termination or expiration of the certificate.~~

B. Development Permit and Building Permit Expiration. A development permit shall automatically expire and be terminated when:

1. A new or modified development permit is issued for the parcel or parcels affected; or
2. The work or action authorized in the development permit has not begun within one hundred eighty days from the date of issuance thereof, unless a longer time is specified in the approval itself; or
3. The work or action authorized in the development permit has not been completed within two years from the date of issuance thereof, unless a longer time is specified in the approval itself;

~~Provided, that prior to termination and expiration of a development permit under subsections (B)(2) and (3) of this section, the administrative official shall give written notice to the applicant at his last known address, and to the owner of record as shown on the Yakima County assessor's parcel index file, that the development permit is about to expire. Such notice shall be made by mail at least forty five days prior to the scheduled date of cancellation and shall describe the action necessary to avoid termination or expiration. Should the development permit expire, the administrative official shall take administrative action to reflect cancellation of the permit in the official records of the department. The department shall send a written permit expiration notice by mail to the permit applicant and the owner of record as shown in the Yakima County assessor's parcel index, together with a notice that further work or action shall not proceed.~~

C. Extension of Any Approved Development Permit and/or ~~Certificate of Zoning Review~~Zoning Decision. A valid ~~certificate of zoning review decision~~ and/or a valid development permit may be extended one time only for up to one additional year by action of the administrative official. Requests for extensions shall be in writing to the department and shall be accompanied by the previously approved final general or detailed site plan showing the location and size of any development or work already completed on the project. The administrative official shall review the application without public notice or hearing and issue the decision within ten days from the receipt of the completed application. The administrative official may:

1. Approve the extension;
2. Approve the extension with conditions to assure the work will be timely completed; or
3. Disapprove the extension.

An extension shall be issued for good cause only and the burden of showing cause shall be upon the applicant. The administrative official shall mail his or her decision to the applicant and shall specify his or her decision as final unless appealed under the provisions of YMC Chapter 15.16. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 48, 1993; Ord. 3019 §§ 46, 47, 1987; Ord. 2947 § 1 (part), 1986).

15.12.070 Certificates of occupancy required at discretion of administrative official.

A. Purpose. The purpose of this section is to provide a means to assure that the terms and conditions of approval imposed after review of development under this title are actually and properly complied with and implemented in a timely fashion, all in furtherance of the goals and policies of this title, the Yakima urban area comprehensive plan, and the public welfare and interest.

B. Certificate of Occupancy May Be Required. There is a condition of approval for the issuance of any development permit or ~~certificate of zoning review zoning decision~~ or any other permit or approval under this title. The administrative official and department, when engaged in administrative modification review under YMC Chapter 15.17, may require or specify that the approved use or occupancy of the structure or land may not occur without the issuance of a ~~certificate of occupancy zoning decision~~ issued by the administrative official certifying that all required site improvements have been fully and properly constructed and that all the terms and conditions of approval have been met. Where such condition is imposed by the administrative official, any use or occupancy of the property or structures, in whole or in part, without the issuance of a certificate of occupancy, is a violation of this title and is punishable under the provisions of YMC Chapter 15.25.

C. Procedures. The administrative official may perform interim and final inspection of the development at his or her own initiative, but shall do so within five days of any request made by the permit holder. The administrative official is authorized to conduct interim and final inspections of the development and may coordinate such inspections with the inspections required by other applicable codes and regulations.

D. Temporary Occupancy Prior to Completion. The administrative official may authorize temporary occupancy of development prior to the issuance of a required certificate of occupancy when, upon request, he or she finds that all the following conditions are met:

1. The applicant is unable to complete all required improvements because of unavoidable circumstances that in no way resulted from the action or inaction of the applicant or permit holder;
2. It is reasonably certain that the applicant will be able to complete the improvements within a reasonable amount of time;
3. Delaying completion of the improvements until after occupancy will not be materially detrimental to property in the vicinity of the proposed development, the health, safety, and welfare of the general public, or the goals and policies of this title and the Yakima urban area comprehensive plan;
4. Security for the completion of required improvements and terms and conditions of approval has been made in accordance with YMC 15.12.080 for any public improvements associated with the development; and

5. The development complies with minimum life and safety codes and the building official has declared the development safe for use. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.12.080 Performance assurance.

A. Purpose. The purpose of this section is to provide a means to assure that the terms and conditions of approval pertaining to construction or changes to public improvements imposed after review of development under this title are actually and properly complied with and implemented in a timely fashion.

B. Performance Assurance Required as a Condition of Approval. As a condition of approval of the issuance of any development permit or ~~certificate of zoning review~~ zoning decision, or any other permit or approval issued under this title, the administrative official may require security for the performance and completion of any proposed or required public improvement or any other term or condition of approval pertaining to a public improvement. The estimate of the performance and completion of any proposed or required public improvement or any other term or condition of approval pertaining to a public improvement will be reviewed and/or calculated by the city/~~county~~ engineer or a designee. When such security is required, it shall be made in accordance with this section and must be made and approved prior to the issuance of the development permit.

C. Forms of Security. The applicant may provide security in the form of one or more of the following:

1. A cash security deposit;
2. A bond; or
3. A deed of trust/mortgage on the subject property or other property;

Provided, however, that the quality, sufficiency, amount, and exact form of the security, are subject to the approval and satisfaction of the city/~~county~~ engineer and administrative official. Whenever any security is provided by an applicant it shall state directly or by reference all the following provisions:

1. The improvements or performance secured;
2. A date or dates of required compliance;
3. The amount of the security;
4. That the security is in favor of the city of Yakima/~~Yakima County~~; and
5. That the applicant shall maintain the security in force until completion of the public improvement or condition for which security was provided.

D. Security Deposits. The following provisions apply to security in the form of a security deposit. When a security deposit is made under the provisions of this section, a written agreement shall be made and signed by the administrative official on behalf of the city/~~county~~. Security deposits shall be made directly to the administrative official and such funds shall be kept in an identifiable trust account. The applicant may designate the location and type of account, and any interest earned thereon shall accrue to and remain in such account. The cost of the account shall be provided for by the applicant or may be deducted from the security deposit.

If the improvements or performances secured by the deposit are not timely completed, the administrative official shall notify the applicant in writing, stating:

1. The nature of the noncompliance and the action necessary to correct the same; and
2. The amount of time in which the applicant has to take corrective action; and
3. That if corrective action is not completed within the time specified the city/~~county~~ will apply the funds in the security deposit in order to effect compliance.

If the corrective action is not taken by the applicant or permit holder within the time specified in the notice given by the administrative official, the city/~~county~~ shall, through its representatives, take whatever action that the city/~~county~~ deems necessary. In addition, the city shall perform or complete the items covered by the security deposit and shall apply funds held therein to the cost of such completion or performance. Any excess or surplus funds shall be refunded to the applicant.

E. Bonds. The following provisions shall apply to bonds provided as security under this section. The bond or other security shall be in an amount and with such surety and conditions satisfactory to the administrative official.

F. Deeds of Trust. Security provided in the form of deeds of trust shall comply with the following provisions. Deeds of trust shall be recorded, the cost of which will be borne by the applicant. If the improvements or performance secured by the deed of trust are not completed, the administrative official shall notify the applicant in writing, stating:

1. The nature of the noncompliance and the action necessary to correct the same;
2. The amount of time in which the applicant has to take corrective action; and
3. That if corrective action is not completed within the time specified the city/~~county~~ will take corrective action itself and/or foreclose the deed of trust.

On failure of the applicant or permit holder to complete corrective action within the time specified, the city/~~county~~ may, at its option and through its designated representatives, either:

- a. Take action necessary or convenient to perform or complete the events secured by deed of trust, and thereafter institute foreclosure of the deed of trust in any manner allowed by law; or
- b. Institute foreclosure action on the face amount of the deed of trust in any manner allowed by law.

G. Partial Releases. An applicant may request a partial release of any security provided under this section based on partial completion or compliance with the events secured. If the administrative official determines that partial release is warranted, he may cause a partial release of security in an amount deemed by him to be appropriate.

H. Applicant and Permit Holder Responsible for Deficiencies. The applicant and/or permit holder is responsible for all costs incurred by the ~~county~~/city in causing completion of the events secured by any security provided for under this section. If, after fully applying the security, a deficiency remains, the applicant and/or permit holder shall be jointly and severally liable for such deficiency and for reasonable attorney's fees necessary to collect the same.

I. Administration. The administrative official is authorized to sign documents and otherwise administer securities under the provisions of this section. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 48, 1987; Ord. 2947 § 1 (part), 1986).

Chapter 15.13

TYPE (1) REVIEW

Sections:

- 15.13.010 Purpose.
- 15.13.020 When required.
- 15.13.030 Development permit application—Type (1) review.
- 15.13.040 Review procedures.
- 15.13.050 Approval.
- 15.13.060 Denial.
- 15.13.070 Appeals.

15.13.010 Purpose.

This chapter establishes procedures for issuance of a development permit for uses requiring Type (1) review. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.13.020 When required.

Class (1) uses not requiring Type (2) or (3) review are permitted; provided, that district standards are met. The administrative official shall use the procedures in YMC Chapter 15.13 to review Class (1) uses and associated site improvements for compliance with the provisions and standards of the zoning district in which they are located.

Class (1) uses require Type (2) review when:

- A. All or part of the development, except for agricultural buildings, single-family dwellings, and duplexes, is in the floodplain or greenway overlay districts;
- B. All or part of a development is in the airport overlay (AO);
- C. All or part of a development is in an institutional (IO) or master planned development overlay (PD) and is identified in a development agreement as requiring Class (2) approval;
- D. The proposed use includes hazardous material;
- E. The applicant requests adjustment of one or more of the specific development standards pursuant to YMC 15.10.020; or
- F. All or part of the development requires a development plan and/or master plan. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 49, 1987; Ord. 2947 § 1 (part), 1986).

15.13.030 Development permit application—Type (1) review.

Applications for permits for Class (1) uses permitted outright in the district shall be made in writing to the administrative official on forms supplied by the department. A general site plan conforming to the provisions of YMC 15.11.040-030 shall accompany the application. The administrative official may request any other information necessary to clarify the application or determine compliance with, and provide for the enforcement of, this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.13.040 Review procedures.

The administrative official shall review all Class (1) uses for compliance with this title. The administrative official shall forward all Class (1) uses requiring Type (2) review under YMC 15.13.020 to the planning department for processing under YMC Chapter 15.14. The administrative official shall notify the applicant of the approval or denial of the application, request additional information, or forward the application to the department for review. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.13.050 Approval.

The administrative official shall issue a ~~development permit~~Type 1 zoning decision when it has been determined that:

- A. The proposed use is a Class (1) permitted use under YMC Chapter 15.04;
- B. That the proposed development complies with the standards and provisions of this title;
- C. That the proposed development complies with other building codes in effect and administered by the administrative official;
- D. That proposed development complies with traffic engineering standards and policies established by the appropriate jurisdiction to protect the function and satisfactory level of service of arterial and collector streets; and
- E. That any new improvements or expansions of a structure comply with the standards of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 50, 1987; Ord. 2947 § 1 (part), 1986).

15.13.060 Denial.

When an application is denied, the administrative official shall state the specific reasons and shall cite the specific chapters and sections of this title upon which denial is based. The administrative official may also refer the applicant to the department to determine if relief from such denial is available through other application. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.13.070 Appeals.

Any decision by the administrative official to deny issuance of a permit for a Class (1) use may be appealed to the hearing examiner under the provisions of YMC 15.16.030. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.14

TYPE (2) REVIEW

Sections:

- 15.14.010 Purpose.
- 15.14.020 When required.
- 15.14.030 Application for Type (2) review.
- 15.14.040 Review procedures.
- 15.14.050 Notification of final decision.
- 15.14.060 Issuance of a ~~certificate of zoning~~ review decision.
- 15.14.070 Appeals.

15.14.010 Purpose.

This section establishes procedures for issuance of a ~~certificate of zoning~~ review decision for uses requiring Type (2) review. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.14.020 When required.

Type (2) review is required for any proposed use shown on Table 4-1 as a Class (2) use; for Class (1) uses requiring Type (2) review in YMC 15.13.020; and for other specific reviews established by this title.

In certain circumstances, the administrative official may require that a Class (2) use undergo a Type (3) review, when one of the following occurs:

- A. In the opinion of the administrative official, formal public review and comment on a proposal will assist in determining necessary and proper mitigation of impacts;
- B. SEPA environmental review of the proposal indicates potentially significant environmental impacts that could prompt a higher type of review;
- C. The application has more than three associated land use decisions to be considered; or
- D. The proposed land use request has a development or master plan required by the size of the proposal or the administrative official has determined one is necessary. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.14.030 Application for Type (2) review.

Applications for Type (2) Review, and certificates of zoning review decisions for Class (2) uses shall be made in writing to the planning department on forms supplied by the department. A general site plan conforming to the provisions of YMC 15.11.040-030 shall accompany the application for Type (2) review. The planning department shall forward the application and site plan to the administrative official for review. The administrative official may request any additional information under the provisions of YMC 15.11.020(B). (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.14.040 Review procedures.

Upon receipt of ~~an completed~~ application for a Class (2) use, the administrative official shall ~~proceed review the application~~ as follows:

- A. Determination of completeness. Within twenty-eight days after receiving a project permit application, the city shall mail or provide in person a written determination to the applicant which states:
 - a. That the application is complete or that the application is incomplete and what is necessary to make the application complete; and

b. To the extent known by the city, the identity of other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application (YMC 16.04.010). (Ord. 98-66 § 1 (part), 1998).

~~A. Preliminary Decision. Within seven days of receipt of the completed application, the administrative official shall review the proposal and tentatively determine whether the proposed development should be approved, approved with conditions or denied. Request for additional information. The administrative official may request any additional information necessary to clarify the application or determine compliance with the provisions of this title in accordance with YMC §-16.04.020.~~

B. Incomplete application. If the city determines an application is not complete, the city shall follow the procedures of YMC §-16.04.030. Within fourteen days following receipt of the requested information, the city shall determine whether or not the application is then complete for processing according to the provisions of YMC 16.04.030.

~~If additional information is required by the administrative official, the preliminary decision on the application shall be made within seven days of receipt of the additional information.~~

~~B.C. B.—Notification of to Adjacent Property Owners. When the administrative official's preliminary decision is to approve the application, or approve with conditions, the administrative official shall, within five days, forward a notice of application shall be provided to all applicants, designated contact persons, and property owners landowners within three hundred feet of the exterior boundaries of the development site. The notice of application will follow the notice requirements of Yakima Municipal Code Chapter 16.05 and may be either a postcard format or letter size paper.~~

The administrative official may also, but is not required to, solicit comments from any other person or public agency the administrative official feels may be affected by the proposal.

~~D. C.—Administrator's Decision. After considering any comments received from other agencies, jurisdictions, or adjoining property owners, the administrative official shall issue a notice of decision regarding the applicant's Type (2) Review application and site plan in accordance with YMC Ch. 16.07.~~

~~C.—take one or more of the following actions:~~

~~D.—1.—Approve the site plan and issue a certificate of zoning review;~~

~~E.—2.—Establish conditions for approval, or require other changes in the proposed site plan;~~

~~F.—3.—Authorize adjustment in the basic design standards in accordance with the provisions of YMC Chapter 15.10;~~

~~G.—4.—Request additional or more detailed information, including but not limited to a written development plan or master plan or other similar documents for development;~~

~~H.—5.—Refer the site plan to the hearing examiner for review, public hearing and decision; or~~

~~I.—6.—Disapprove the site plan.~~

~~J.—A request by the administrative official for additional or more detailed information shall be made within seven days from the end of the comment period. issue a notice of decision regarding the applicant's Type (2) Review application and site plan in accordance with YMC Ch. 16.07.~~

~~K.E.~~ Conditional Approval. The administrative official may attach conditions to his or her approval in order to assure the development is consistent with the intent of this title, the zoning district, the development standards, and the other provisions of this title.

~~L.F.E.~~ Findings and Conclusions. The administrative official shall prepare written findings and conclusions stating the specific reasons, and citing the specific chapters and sections of this title, upon which the administrative official's decision to approve, approve with conditions, or deny the issuance of a ~~certificate of zoning review~~zoning decision is based. The findings shall demonstrate that the administrative official's decision complies with the policies of the Yakima urban area comprehensive plan, the intent of the zoning district, and the provisions and standards established herein. (Ord. 2010-31 § 5, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 51, 1987: Ord. 2947 § 1 (part), 1986).

15.14.050 Notification of final decision.

The administrative official's final decision shall be issued within one hundred twenty days after the city notifies the applicant the application is complete, or as otherwise provided for in YMC Ch. 16.07, seven days from the end of the comment period, or, if additional information was requested, within seven days from the date the administrative official received the information. ~~The administrative official shall mail any other findings and decision to the applicant and to other parties receiving initial notice not later than three working days following the issuance of the final decision. The administrative official shall also specify that the decision is final unless appealed to the hearing examiner.~~The final decision shall be mailed to the applicant and other parties of record, and shall state that the decision is final unless appealed to the hearing examiner. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 52, 1987; Ord. 2947 § 1 (part), 1986).

15.14.060 Issuance of a ~~certificate of zoning review~~zoning decision.

No use requiring Type (2) review by the administrative official shall be entitled to a development permit until and unless the administrative official approves a final site plan and authorizes issuance of a ~~certificate of zoning review~~zoning decision. The ~~certificate of zoning review~~zoning decision is not a building or development permit and does not by itself authorize the construction or occupancy of any use or structure. (Ord. 2008-46 § 1 (part), 2008).

15.14.070 Appeals.

Decisions by the administrative official under Type (2) review may be appealed to the hearing examiner in accordance with YMC Chapter ~~15.16~~16.08. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.15

TYPE (3) REVIEW

Sections:

- 15.15.010 Purpose.
- 15.15.020 When required.
- 15.15.030 Application for Type (3) review.
- 15.15.040 Review procedures.
- 15.15.050 Notice of examiner's decision.
- 15.15.060 Issuance of a ~~certificate of zoning review~~ zoning decision.
- 15.15.070 Appeals.

15.15.010 Purpose.

This chapter establishes procedures for issuance of a ~~certificate of zoning review~~ decision for uses requiring Type (3) review. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.15.020 When required.

Type (3) review is required for any proposed use shown on Table 4-1 as a Class (3) use or for Class (2) uses referred by the administrative official for Type (3) review, and for other specific reviews established by this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.15.030 Application for Type (3) review.

Applications for ~~certificates of zoning~~ Type (3) review for Class (3) uses shall be made in writing to the planning department on forms supplied by the department. A detailed site plan conforming to the provisions of YMC 15.11.050-040 shall accompany the application for Type (3) review. The planning department shall forward the application and site plan to the hearing examiner for review in accordance with YMC Title 16. The planning department or hearing examiner may request any additional information necessary to clarify the application or determine compliance with this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.15.040 Review procedures for Type (3).

The following procedures will be followed for the review of Class (3) uses:

- A. Determination of completeness. Within twenty-eight days after receiving a project permit application, the city shall mail or provide in person a written determination to the applicant which states:
 - a. That the application is complete or that the application is incomplete and what is necessary to make the application complete; and
 - b. To the extent known by the city, the identity of other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application (YMC 16.04.010). (Ord. 98-66 § 1 (part), 1998).
- B. Request for additional information. The administrative official may request any additional information necessary to clarify the application or determine compliance with the provisions of this title in accordance with YMC 16.04.020.
- C. Incomplete application. If the city determines an application is not complete, the city shall follow the procedures of YMC 16.04.030. Within fourteen days following receipt of the requested information, the city shall determine whether or not the application is then complete for processing according to the provisions of YMC 16.04.030.
- D. Public Hearing. The planning department shall be responsible for assigning a date for, and assuring due notice of, a public hearing for each application. Notice of the time and place of the public hearing shall be

given as provided for in accordance with YMC Ch. 16.05 The hearing examiner shall hold at least one public hearing prior to rendering any decision. The applicant shall appear in person or by agent or attorney. Failure to do so may constitute sufficient cause for continuance of the hearing or denial of the application. Other parties may appear in person or by agent or attorney, or may submit written documents regarding the application.

E. Notification of Adjacent Property Owners. A notice of application and public hearing shall be provided to all applicants, designated contact persons, and property owners within three hundred feet of the exterior boundaries of the development site. The notice of application will follow the notice requirements of Yakima Municipal Code Ch. 16.05 and may be either a postcard format or letter size paper.

The administrative official may also, but is not required to, solicit comments from any other person or public agency the administrative official feels may be affected by the proposal.

A.F. A. Report of Planning Department. The planning department shall distribute copies of the site plan to other affected departments, agencies, and jurisdictions for review and comment and shall coordinate and assemble the comments received. These comments shall be included in a report prepared by the department summarizing the proposal and stating the department's findings and recommendations. At least seven calendar days prior to the scheduled hearing, copies of the planning department's report shall be filed with the examiner, mailed to the applicant, and made available for public inspection.

~~B. B. Public Hearing. The planning department shall be responsible for assigning a date for, and assuring due notice of, a public hearing for each application. Notice of the time and place of the public hearing shall be given as provided for in Table 11-2. The hearing examiner shall hold at least one public hearing prior to rendering any decision. The applicant shall appear in person or by agent or attorney. Failure to do so may constitute sufficient cause for continuance of the hearing or denial of the application. Other parties may appear in person or by agent or attorney, or may submit written documents.~~

~~C.G. C.~~ Examiner's Decision. Within ten days of the conclusion of a hearing, unless a longer period is agreed to on the record or in writing by the applicant, the examiner shall render a written decision. The hearing examiner may approve, deny, or conditionally approve the proposal.

~~D.H. D.~~ Conditional Approval. The hearing examiner may attach conditions to ~~his-his or her~~ approval in order to assure the development is consistent with the intent of this title, the zoning district, the development standards and the other provisions of this title.

~~E.I. E.~~ Findings and Conclusions. The hearing examiner shall prepare written findings and conclusions stating the specific reasons and citing the specific chapters and sections of this title upon which his⁴ or her decision to approve with conditions or deny the ~~issuance of a certificate of zoning review~~ zoning decision is based. The findings shall demonstrate that the hearing examiner's decision complies with the objectives of the Yakima urban area comprehensive plan, the intent of the zoning district, and the provisions and standards established herein. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 49, 1993: Ord. 2947 § 1 (part), 1986).

15.15.050 Notice of examiner's decision.

Copies of the examiner's decision shall be sent by certified mail to the applicant. Copies of a "summary of decision" will be sent by regular mail to other parties of record in the case not later than three working days following the rendering of a written decision by the examiner. Copies of the complete decision or summary decision will be made available upon request. If the effect of the decision is a recommendation to the legislative body, the original thereof shall be transmitted to the legislative body. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 50, 1993: Ord. 2947 § 1 (part), 1986).

15.15.060 Issuance of a ~~certificate of zoning review~~ zoning decision.

No use requiring review by the hearing examiner shall be entitled to a development permit until and unless the hearing examiner approves a final site plan and ~~authorizes issuance of a certificate of zoning review~~ issues a zoning decision. The ~~certificate of zoning review~~ zoning decision is not a building or development permit, and does not by

itself authorize the construction or occupancy of any use or structure. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.15.070 Appeals.

Decisions by the hearing examiner under Type (3) review may be appealed to the legislative body in accordance with YMC Chapter 16.08~~Chapter 15.16~~. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.16

APPEALS

Sections:

- 15.16.010 Purpose.
- ~~15.16.050~~ Conflict of Provisions.
- 15.16.020 Appeals—Where filed.
- ~~15.16.030~~ Consolidated appeals.
- ~~15.16.030—040~~ Appeal of the administrative official's decision.
- ~~15.16.040—050~~ Appeal of the hearing examiner's decision.
- ~~15.16.050—060~~ Legislative body action on appeals.
- ~~15.16.060—070~~ Appeal of decisions by the legislative body.
- ~~15.16.070—080~~ Effect of appeals.
- ~~15.16.080—090~~ Actions not appealable.

15.16.010 Purpose.

The purpose of this chapter is to establish the procedures for appealing decisions made under the provisions of this title. ~~In the event of any conflict between this Chapter and that of YMC Title 16, the provisions of Title 16 shall prevail.~~ (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.16.015 Conflict of Provisions.

In the event of any conflict between this Chapter and that of YMC Title 16, the provisions of Title 16 shall prevail.

15.16.020 Appeals—Where filed.

All appeals authorized under the provisions of this title, except judicial appeals, shall be filed with the department. The department shall forward the appeal to the appropriate administrative official, schedule an appeal hearing, provide the required notification, and maintain complete records of all appeal hearings unless otherwise provided for in this chapter. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.16.030 Consolidated appeals.

A. All appeals of project permit application decisions, other than an appeal of SEPA determination of significance, shall be considered together in a consolidated appeal and shall not be separated from the substantive matters of the application.

B. Appeals of Determinations of Significance under SEPA, Chapter 6.88 YMC, shall proceed as provided in that chapter in an open record hearing. The purpose of this early and separate appeal hearing is to resolve the need for an environmental impact statement (EIS) and to permit administrative and judicial review prior to preparation of an EIS. (Ord. 98-66 § 1 (part), 1998).

~~15.16.030~~040 Appeal of the administrative official's decision.

A. ~~A.~~—Appeal to the Hearing Examiner. Except as otherwise provided, any aggrieved person or agency directly affected by any decision of the administrative official or designee may appeal that decision to the hearing examiner.

B. ~~B.~~—Appeal. All appeals shall be filed within fourteen days following the mailing of the final decision by the administrative official or designee. Appeals shall be filed with the department. If a final decision does not require mailing, the appeal shall be filed within fourteen days following the issuance of the final decision.

C. ~~C.~~—Appeals Shall Be in Writing. All appeals shall be in writing on forms provided by the department and shall be accompanied by the required fees; provided, that appeal fees should not be charged to the legislative body or a department of the city ~~or county~~. All appeals shall specifically cite the action being appealed, the error(s) or issue(s) to be considered, and explain why the action is not consistent with the provisions of the Yakima urban area comprehensive plan, this title, or other provisions of law.

~~D.~~ ~~D.~~—Notice. The department shall:

~~a. Set a reasonable time and place for hearing of the appeal; and~~

~~b. Provide a notice of appeal and public hearing to the official whose decision is being appealed and parties entitled to notice of the decision, including posting of property and published notice; and at least ten days prior to the hearing.~~

~~a. shall Shall notify the adverse parties of record and the official whose decision is being appealed at least ten days prior to the hearing; provided, that for the review of a decision of the administrative official made under Type (2) review, the notice prescribed for Type (2) review under this title shall be given.~~

~~E. E.~~—Transfer of Record. The officer from whom the appeal is being taken shall forthwith transmit to the hearing examiner all the records pertaining to the decision being appealed from, together with such additional written report as he or she deems pertinent.

~~F. Staff Report. A staff report shall be prepared and transmitted to the examiner, along with the record in accordance with YMC § 16.08.020 (C).~~

~~a.G. F.~~—Action by the Hearing Examiner. Testimony given during the appeal shall be limited to those points cited in the appeal application ~~except for appeals of decisions of the administrative official made under Type (2) review, in which case the appeal shall be de novo~~. The hearing examiner shall render a written decision on the appeal within ten working days from the conclusion of the hearing, unless a longer period is mutually agreed to by the applicant and the examiner. The hearing examiner may affirm or reverse, wholly or in part, or modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The department shall send copies of the hearing examiner's decision to the appellant, the parties of record, and the official whose decision was appealed, not later than three working days following the issuance of the final decision.

~~a.G. G.~~—Decisions by the Hearing Examiner Shall Be Final Unless Appealed. Except as otherwise provided, all appeal decisions by the hearing examiner shall be final and conclusive on all parties unless appealed to the legislative body under YMC ~~15.16.040~~ 16.08.030. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 §§ 53, 54, 1987; Ord. 2947 § 1 (part), 1986).

15.16.04050 Appeal of the hearing examiner's decision.

A. Appeals. The ~~final~~ decision of the hearing examiner ~~on those applications listed in YMC 15.20.040(C)(1), and on appeals made under YMC 15.16.030,~~ shall be final and conclusive unless ~~it is~~ appealed to the legislative body by a person aggrieved, or by any agency of the city/~~county~~, affected by the decision in the following manner:

~~1. 1. The city council shall hear appeals of all decisions by the hearing examiner during a public meeting or a limited hearing for receipt of oral legal argument.~~

~~a.2.~~ The appealing party must file a complete written notice of appeal with the planning department upon forms prescribed by the department and accompanied by the appeal fee within fourteen days from the date of mailing of the examiner's final decision.

~~3. 2.~~—The notice of appeal shall specify the claimed error(s) and issue(s) that the legislative body is asked to consider on appeal and shall specifically state all grounds for such appeal. Issues or grounds of appeal that are not so identified need not be considered by the legislative body.

~~b.4.~~ The city council shall hear appeals of all decisions by the hearing examiner during a public meeting or a limited hearing for receipt of oral legal argument

B. Appeal Procedures.

1. Notice of Filed Appeal. The planning department shall notify the parties of record and appellant that an appeal has been filed and that copies of the notice of appeal and any written argument or memorandum of authorities accompanying the notice of appeal may be obtained from the department.

~~1.A.~~ Content of notice of filed appeal. The notice to parties and appellant shall ~~also state~~ contain the following statements: that All parties of record wishing to respond to the appeal may submit a written argument or memorandum to the legislative body within ~~fourteen-thirty~~ thirty days from the date that the notice is mailed; ~~The notice shall further specify that such and Any~~ Any written argument or memorandum shall not include the presentation of new evidence and shall be based only upon the facts presented to the examiner. ~~A copy of the notice shall be sent to the appellant.~~

2. Submittal of written argument or memorandum:

a. The appellant or any party of record may ~~submit file with the department~~ submit file with the department a written argument or memorandum of authority within ~~fourteen-thirty~~ thirty days of the date of mailing of the notice ~~to parties of a filed appeal. Such written argument or memorandum of authorities shall be filed with the department.~~

b. Rebuttal to written argument and memorandum: Upon completion of the thirty day submittal period for submission of any written argument and memorandum, the appellant at their expense may obtain copies of any such submissions, and shall be provided a fifteen day rebuttal period (starting on the 31st day from the date of mailing of the notice of filed appeal).

c. Extension of time for written argumentation and memorandum:

1. No written argument or memorandum of authorities may be thereafter submitted except as follows. The appellant or parties of record may request in writing, and the written request for cause granted by the department, may, at its discretion and for cause, grant, without prior notice to other parties of record, a fifteen day extension of time within which written arguments or memoranda must be submitted; provided, that the However, requests for extension is must be made no later than the last date the memoranda would otherwise be due.

2. The legislative body may grant further extensions on a finding by the legislative body of the existence of extenuating circumstances which warrant such extensions. Notice of an extension shall be given to all parties of record. Memoranda, written arguments or comments shall not include the presentation of any new evidence and shall be based only on the facts presented to the examiner.

~~1.d.~~ Upon extension of any request for written argumentation or memorandum, a notice of extension shall be given to all parties of record, and the notice shall include the statement that: "Memoranda, written arguments or comments shall not include the presentation of any new evidence and shall be based only on the facts presented to the examiner."

3. Transfer of record to legislative body. When a timely appeal has been filed and the deadline for receipt of written memoranda and all extensions has passed, the department shall ~~within five days~~ deliver to the legislative body a copy of the examiner's decision, the evidence presented to the examiner, ~~an audio~~ recording of the hearing before the examiner and any written argument or memorandum of authority which has been received. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 55, 1987; Ord. 2947 § 1 (part), 1986).

15.16.050060 Legislative body action on appeals.

~~a.A.~~ A.—General. When the record and the examiner's decision have been transmitted to the legislative body, the clerk of the legislative body shall schedule a date for a ~~public meeting~~ closed record appeal by the legislative body at which time the legislative body shall consider the appeal. The date of the public meeting should not be later than twenty days following the date the legislative body receives the information from the department.

~~b.B.~~ B.—Public Notice Meeting on Appeals. The clerk of the legislative body shall mail written notice to all parties of record and the examiner to apprise them of the meeting date before the legislative body.

~~c.C.~~ C.—Site Views. The legislative body may view the site.

D. ~~D.~~—Scope of Review. Legislative body review of the facts shall be limited to the record which include all materials received in evidence at any previous stage of the review, audio/visual tapes of the prior hearing(s), and the

~~final order being appealed, and argument by the parties at the examiner's hearing.~~ ~~evidence presented to the examiner.~~ The legislative body may request additional information or memoranda in order to reach a decision; provided, that all parties of record are given an opportunity to respond to the material provided.

E. Appellant and Respondent Arguments. The appellants and any respondents to the appeal shall have the opportunity to present oral and written argument. Oral argument shall be confined to the prior established hearing examiner record and to any alleged errors in the decision.

~~F. E.~~ E.—Action on Appeal. At the public ~~meeting~~ hearing the legislative body may adopt, amend and adopt, reject, reverse, or amend and reverse the findings, conclusions, and decision of the examiner, or remand the matter for further consideration or for the purpose of taking and considering new factual evidence by the examiner. If the legislative body renders a decision different from the decision of the examiner, the legislative body shall adopt amended findings and conclusions accordingly. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.16.06070 Appeal of decisions made by the legislative body.

The action of the legislative body on an appeal of the decision of the examiner shall be final and conclusive unless within ~~thirty-two~~ one days from the date of final action an aggrieved party obtains an appropriate writ of judicial review from the Yakima County superior court for the purpose of review of the action taken. The appellant shall provide or pay for, in advance, the cost of preparing any verbatim transcript of proceedings required for judicial appeal. With the consent of the superior court, the parties may agree to provide a verbatim audio record of proceedings for purposes of review by the superior court as provided in Chapter 36.70C RCW. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.16.07080 Effect of appeals.

Filing of an appeal stays all actions of the administrative official or designee on pending applications for development permits associated with the action or decision being appealed. The filing of an appeal shall not stay the effectiveness or effective date of any enforcement action or decision for violation of this title including cancellations and revocations of permits or approvals. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 56, 1987: Ord. 2947 § 1 (part), 1986).

15.16.08090 Actions not appealable.

A. Generally. Only final actions or decisions of an administrative official or other official may be appealed under this chapter.

B. Procedural Rulings. Interim procedural or other rulings during or as part of a review or decision making process by an administrative or other officer under this title are not appealable except as part of the final decision or action.

C. Enforcement Actions. No enforcement action for violation of this title is appealable except as expressly provided in YMC Chapter 15.25. No decision or action for issuance of a warning citation or criminal citation by the administrative official or other proper legal authority is appealable under this chapter, nor shall any appeal under this chapter be taken of any enforcement action commenced by any party in a court of law. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.17

MODIFICATIONS TO EXISTING OR APPROVED USES OR DEVELOPMENT*

Sections:

- 15.17.010 Purpose.
- 15.17.020 Modification to permitted development and uses regulated.
- 15.17.030 Exemptions.
- 15.17.040 Review of modifications.
- 15.17.050 Appeals.

* Prior legislation: Ords. 3106, 93-81 and 95-13.

15.17.010 Purpose.

This chapter establishes provisions for the review of proposed modifications to existing or approved Class (2) or (3) uses. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 57, 1987: Ord. 2947 § 1 (part), 1986).

15.17.020 Modification to permitted development and uses regulated.

All modifications to existing or approved Class (1) uses or development shall be reviewed as a Class (1) use rather than under these modification provisions. Minor changes to existing or approved Class (2) or (3) uses or development may qualify for abbreviated review under the provisions in this chapter, if they meet the criteria listed below, or may apply directly for review as a Class (2) or (3) use or development. Overlay districts shall not increase the level of review for the provisions of this chapter. Modifications not meeting the criteria below must apply directly for review as a Class (2) or (3) use or development.

- A. The modification will not increase residential density;
- B. The modification will not increase the amount of parking by more than ten percent or twenty spaces (whichever is least), except that the amount of parking for controlled atmosphere and cold storage warehouses may be increased by up to twenty spaces. This limit shall be calculated cumulatively for all previous modifications since the last normal review;
- C. Any expansion of use area or structure will not exceed fifty percent of the gross floor area. This limit shall be calculated cumulatively for all previous modifications since the last normal review;
- D. The modification will not increase the height of any structure;
- E. This limit shall be calculated cumulatively for all previous modifications since the last normal review;
- F. The modification will not add a drive-thru facility; and
- G. The modification does not include hazardous materials. (Ord. 2010-16 § 14, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 58, 1987: Ord. 2947 § 1 (part), 1986).

15.17.030 Exemptions.

For exemptions from the review processes, see YMC 15.01.040(A). (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 57, 1987: Ord. 2947 § 1 (part), 1986).

15.17.040 Review of modifications.

A. Submittals. Applications for modification shall follow the submittal requirements for Type (1) review. In addition, for an approved Class (2) or (3) use or development, the applicant shall submit both the site plan previously approved by the reviewing official and a new site plan showing the location, size, and type of modification proposed by the applicant.

B. Review. Applications for modifications may be administratively and summarily reviewed using the Type (1) review process, in addition to the following criteria:

1. Any proposed change in the site design or arrangement:
 - a. Will not change or modify any special condition previously imposed under Class (2) or (3) review;
 - b. Will not adversely reduce the amount of existing landscaping or the amount or location of required sitescreening; and
 - c. In the determination of the planning department, it will not create or materially increase any adverse impacts or undesirable effects of the project.
2. All proposed new structures, site improvements, or structural alterations to existing structures or site improvements comply with the development standards of YMC Chapters 15.05 through 15.08, except as approved under the adjustment or variance provisions.

C. Decision and Notification of Decision. The planning department shall issue a written decision on the modification application using the Type (1) decision process. In addition, any proposed modification that does not meet all the requirements of this section shall be denied. The department shall mail its decision to the applicant. Uses or developments denied under this chapter may submit applications for review under the normal review provisions for the use. (Ord. 2008-46 § 1 (part), 2008).

15.17.050 Appeals.

Decisions by the planning department regarding approval or denial of administrative modifications may be appealed as prescribed by the applicable review. (Ord. 2008-46 § 1 (part), 2008; Ord. 2947 § 1 (part), 1986. Formerly 15.17.060).

Chapter 15.18

EXISTING USES AND DEVELOPMENT

Sections:

- 15.18.010 Purpose and intent.
- 15.18.020 Continuation of existing Class (1), (2), and (3) uses.
- 15.18.030 Continuation of planned developments—Limitations.
- 15.18.040 Continuation of construction started.
- 15.18.050 Modifications to an existing Class (1), (2), or (3) use.

15.18.010 Purpose and intent.

Within the zoning districts established by this title, or zoning district amendments that may later be adopted, uses may exist that were legally established prior to the effective date of this title. These may be classified under YMC Chapter 15.04 as a Class (1), (2), or (3) use in a particular zoning district. This chapter provides for the continuation of these existing uses even though they have not been through a Type (1), (2), or (3) review process and may not conform to the development standards of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.18.020 Continuation of existing Class (1), (2), and (3) uses.

- A. Generally. Existing uses shall be permitted to continue provided they remain otherwise lawful.
- B. Continuation When an Existing Class (1), (2), or (3) Use is Damaged. Any existing use, including an existing Class (2) or (3) use, that is damaged or destroyed may be replaced as it was immediately prior to the damage, after review by the appropriate administrative official or designee; provided, that if the existing use is in a nonconforming structure, reconstruction of the structure shall occur in accordance with the provisions of YMC 15.19.060. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.18.030 Continuation of planned developments—Limitations.

At the time of the effective date of this title there will exist certain uses which have previously been approved and/or constructed, in whole or in part, as planned developments under the provisions of preexisting ordinances. This section shall cover the continuation and future use, occupancy, maintenance, modification, and regulation of these special developments, and supersedes the terms and provisions of any previous ordinance authorizing or approving said developments.

- A. General Policy and Intent. Previously processed and approved planned developments shall be allowed to continue to exist under the terms and conditions of the previously approved enacting ordinance, site plan, and planned development program. Any modifications or changes to such planned development shall, however, render the entire development subject to the provisions of this title.
- B. Designation of Planned Developments for the Purpose of Future Modifications. For purposes of future modifications, previously approved planned developments which would constitute and can be classified as a Class (1), (2), or (3) use under the provisions of this title shall, in conjunction with the terms and conditions of their approval, be considered and are hereby declared to be approved Class (1), (2), and (3) uses. Previously approved planned developments which by use would not be classified as a Class (1), (2), or (3) use shall be considered and are hereby declared to be nonconforming uses.
- C. Compliance with Terms and Conditions of Approval Required. The terms, conditions, and provisions of the site plan, planned development program, and enacting ordinance of any previously approved planned development are declared to be and shall remain in full force and effect as the binding site plan and conditions of approval for said development. Noncompliance therewith is a violation of the provisions of this title and subject to the penalties and enforcement provisions of YMC Chapter 15.25.
- D. Completion of Planned Developments Required Within Two Years. All previously approved planned developments which have not been fully constructed and completed in accordance with the terms and conditions of approval under the provisions of its enacting ordinance, site plan, and program, shall be fully completed and constructed in accordance with those terms, conditions, and provisions within two years of the effective date of this

title. Failure to so complete any previously approved plan development shall constitute a forfeiture of all rights, privileges, and approvals pertaining to said planned development. Such time may be extended for a maximum of one year by the administrative official for good cause not within the control of the applicant, developer, or owner of said planned development. Upon any forfeiture under the provisions of this subsection, all further development, including the use or occupancy of any land or structure, or the completion of any structure, is subject to full compliance with the terms and provisions of this title.

E. Voluntary Dissolution of Planned Development. By mutual agreement of the administrative official and property owner, a property owner may voluntarily forfeit all rights, privileges, and approvals pertaining to a previously approved planned development. Such requests for forfeiture shall be submitted in writing to the administrative official. Upon written approval by the administrative official, said planned development shall be dissolved and declared null and void. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.18.040 Continuation of construction started.

To avoid undue hardship, nothing in this title shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction was lawfully begun prior to the effective date of this title. Demolition or removal of an existing building begun preparatory to rebuilding shall be deemed to be actual construction. Nothing in this title shall be deemed to require a change in the plans, construction or designated use of any structure for which there exists on the effective date of this title a valid and legally issued permit; provided, that actual construction commences during the effective period of such permit or one year from effective date of this title. Authority to proceed under this section is conditioned on all work being done lawfully and carried on diligently until completion; failure to do so shall constitute a forfeiture of such rights. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.18.050 Modifications to an existing Class (1), (2), or (3) use.

Modifications to an existing Class (1), (2), or (3) use shall be made in accordance with YMC Chapter 15.17. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.19

NONCONFORMING USES, STRUCTURES AND CRITICAL AREAS*

Sections:

- 15.19.010 Purpose and intent.
- 15.19.020 Illegal uses, structures and lots not permitted.
- 15.19.030 Establishment.
- 15.19.040 Development on existing lots of record.
- 15.19.050 Continuation of nonconforming uses.
- 15.19.060 Nonconforming structures.
- 15.19.070 Change from a nonconforming use to a Class (1), (2), or (3) use.
- 15.19.080 Change from a nonconforming use to another nonconforming use—Expansion of a nonconforming use or structure.
- 15.19.090 Modifications of an approved site plan for a nonconforming use or structure.
- 15.19.100 Discontinuance of a nonconforming use or structure.
- 15.19.110 Sale of a nonconforming use or structure.
- 15.19.120 Critical area nonconforming uses and facilities.

* Prior legislation: Ord. 2007-18.

15.19.010 Purpose and intent.

Within the districts established by this title, or amendments that may later be adopted, there may exist lots, structures, and uses which were lawful before this title was adopted or amended, but because of the application of this title, no longer conform to the provisions and standards of the district in which they are located. This chapter provides for the regulation of these legal nonconforming lots, structures, and uses, and specifies those circumstances, conditions, and procedures under which such nonconformities shall be permitted to continue and expand. In the case of nonconformities with YMC Chapter 15.27, critical areas specific review provisions are provided under YMC 15.19.120 that shall be used in lieu of other provisions of this chapter.

Except as otherwise provided, it is the intent of this title to permit legal nonconforming uses or structures to continue to exist without specific time limitations. Modifications or changes to or involving such nonconformities are subject to the provisions and policies under YMC Chapters 15.17 and 15.18. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.020 Illegal uses, structures and lots not permitted.

Structures, lots, required site improvements, uses and/or developments not legally established or existing as of the effective date of this title retain their illegal status and must be abated or fully conform and comply with the procedural and substantive provisions of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.030 Establishment.

The burden of establishing that any nonconformity is a legal nonconformity as defined herein shall, in all cases, be upon the owner of such nonconformity and not upon the ~~county~~/city. Upon request, the administrative official shall assist the property owner in locating public records that pertain to the legal status of the nonconformity. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.040 Development on existing lots of record.

In any district, any permitted use or structure may be erected on any existing lot or parcel. Provided that no zero lot line, common wall, duplex, or multifamily development shall be allowed on existing lots of record in the SR and R-1 zones unless the lot conforms to the minimum lot size requirements in Table 5-2, or the development involves the replacement or reconstruction of a damaged legally existing zero lot line, common wall, duplex or multifamily development. This section shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district; provided, that the setback dimensions of the structure shall conform to the regulations of the zoning district in which the lot is situated. YMC 15.05.020(B) contains additional provisions

for development on nonconforming lots. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.050 Continuation of nonconforming uses.

A. Generally. Any legal nonconforming use may continue as long as it remains otherwise lawful. Any change or expansion of the nonconforming use shall be made in accordance with the provisions of YMC 15.19.070 or 15.19.080.

B. Continuation When a Nonconforming Use is Damaged or Destroyed. When a nonconforming use and associated structure are damaged, the nonconforming use may be replaced as it was prior to the damage. If the structure was also nonconforming, the structure may be rebuilt as it was immediately prior to the damage or in a manner that is more conforming in accordance with YMC 15.19.080. (Ord. 2008-46 § 1 (part), 2008: Ord. 98-57 § 1 (part), 1998: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.060 Nonconforming structures.

A. Generally. Any legal nonconforming structure may continue so long as it remains otherwise lawful. A nonconforming structure other than a required site improvement may be included in and/or changed as part of any development, or modification to development, subject to review and approval under the procedures and provisions of this title; provided, that nothing in this section shall authorize the expansion or change of a nonconforming structure except as otherwise provided for in this chapter. The required site improvements, parking, and signs are subject to the more specific policies on nonconforming parking and signs in YMC Chapters 15.06 and 15.08, which shall control and govern.

B. Maintenance of a Nonconforming Structure. Nothing in this chapter shall be construed to restrict normal structural repair and maintenance of a nonconforming structure, including the replacement of walls, fixtures and plumbing.

C. Reconstruction of a Nonconforming Structure. When a nonconforming structure is damaged or destroyed, the administrative official or designee shall issue a development permit allowing the structure to be rebuilt as it was immediately prior to the damage or in a manner that is less nonconforming; provided, no reconstruction of a nonconforming structure shall be performed without the issuance of a development permit by the administrative official. Applications and permits for such reconstruction shall be made in accordance with YMC Chapters 15.11-~~and 15.12 except that no certificate of zoning review is required.~~

D. Proof of Compliance. The property owner shall provide the information necessary to reasonably assure the administrative official or designee that the reconstruction being authorized complies with this section. The information provided shall include, but not be limited to:

1. A general site plan showing the actual dimensions of the nonconforming structure, its height, and its exact placement on the lot prior to being damaged;
2. Where a nonconforming use is involved, a written narrative describing the use or uses that existed immediately prior to damage;
3. An affidavit or certificate that the narrative and site plan accurately represent the nonconforming structure and/or use as they were immediately prior to damage. The administrative official or designee may approve reconstruction in conformance with the site plan or in a manner that is more conforming with the provisions and standards of the zoning district in which it is located. If the administrative official or designee determines that the requested reconstruction amounts to an expansion of the nonconforming structure, he shall forward the application to the hearing examiner for review under the provisions of this chapter. (Ord. 2008-46 § 1 (part), 2008: Ord. 98-57 § 1 (part), 1998: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.070 Change from a nonconforming use to a Class (1), (2), or (3) use.

The following procedures shall be followed for changing a nonconforming use to a Class (1), (2), or (3) use:

A. Change to a Class (1) Use. Application for changing a nonconforming use to a Class (1) use shall be made under the provisions of YMC Chapter 15.13, Type (1) Review.

B. Change to a Class (2) Use. Application for changing a nonconforming use to a Class (2) use shall be made and reviewed under the provisions of YMC Chapter 15.14, Type (2) Review. The administrative official may approve the proposed Class (2) use when he determines the proposed use is compatible with the objectives of the Yakima urban area comprehensive plan, the intent of the zoning district and the provisions and standards established herein.

C. Change to a Class (3) Use. Application for changing a nonconforming use to a Class (3) use shall be made and reviewed under the provisions of YMC Chapter 15.15, Type (3) Review. The hearing examiner shall hold at least one public hearing on the proposed change prior to rendering a decision. The hearing examiner may approve the proposed Class (3) use when he determines it is compatible with the objectives of the Yakima urban area comprehensive plan and the purpose and intent of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.080 Change from a nonconforming use to another nonconforming use—Expansion of a nonconforming use or structure.

The following procedures shall be followed to change a nonconforming use to a different nonconforming use; expand a nonconforming use throughout a structure; and/or expand a nonconforming structure or use throughout a lot or onto an adjoining lot. These procedures shall be used to expand a nonconforming structure throughout a lot; provided, a structure that is nonconforming only by reason of excessive building height or substandard setbacks, or is a nonconforming single-family dwelling, may be altered or expanded under the modification provisions of YMC 15.17.020 when the alteration or expansion:

1. Does not increase the degree of nonconformity of the structure;
2. Complies with development standards of the district in which it is located;
3. The nonconforming structure is occupied by a Class (1) or Class (2) use or is a single-family dwelling or duplex; and
4. In the case of expanding a nonconforming single-family dwelling or duplex, the proposed expansion is fifty percent or less of the existing building area. The provisions of YMC 15.17.020 shall also be used for the reconstruction of a nonconforming single-family dwelling.

A. Application. The application procedures shall be the same as those established in YMC 15.15.030 for Class (3) uses. A detailed site plan conforming to the provisions of YMC 15.11.050-040 shall accompany any applications required by this section.

B. Public Hearing and Review. The department shall review and process the application under the provisions of YMC 15.15.040. ~~The hearing examiner shall hold at least one public hearing. Within ten days after the public hearing, unless a longer period is agreed to on the record or in writing by the applicant, the hearing examiner shall render a written decision.~~

C. Conditions for Approval. The hearing examiner may grant the relief requested if he finds all of the following:

1. That the expansion, change, reconstruction or replacement requested would not be contrary to the public health, safety, or welfare;
2. That the proposed expansion, change, reconstruction, or replacement is compatible with the character of the neighborhood; and, in the case of an expansion or change, does not significantly jeopardize future development of the area in compliance with the provisions and the intent of the zoning district;
3. That the significance of the applicant's hardship is more compelling than, and reasonably overbalances, the public interest resulting from denial of the relief requested;
4. That the use or structure was lawful at the time of its inception; and
5. That the value of nearby properties will not be significantly depressed by approving the requested expansion, change, reconstruction, or replacement.

6. The expansion, change, reconstruction, or replacement requested shall be denied if the hearing examiner finds that one or more of the provisions in subsections (C)(1) through (5) of this section are not met.

D. Findings and Conclusions. The hearing examiner shall prepare written findings and conclusions stating the specific reasons for his or her decision to approve, approve with conditions, or deny the application. The findings shall include the hearing examiner's determination regarding compliance of the proposed expansion, change, reconstruction or replacement with the criteria established in subsection C of this section. ~~The In the event that the hearing examiner approves or conditionally approves the underlying land use application, shall issue a certificate of zoning review in accordance with YMC 15.15.060 upon approval of an application and the accompanying site plan, shall be approved or be approved upon modification/compliance with the hearing examiner's determination.~~

E. Conditional Approval. When approving a change in, or the expansion, reconstruction, or replacement of, a nonconforming use or structure, the hearing examiner may attach conditions to the proposed change, expansion, replacement, reconstruction, or any other part of the development, in order to assure that the development is improved, arranged, and screened to be compatible with the objectives of the Yakima urban area comprehensive plan, this title, and neighboring land uses. (Ord. 2008-46 § 1 (part), 2008: Ord. 98-57 § 1 (part), 1998: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.090 Modifications of an approved site plan for a nonconforming use or structure.

Site plans approved for the change, expansion, reconstruction, or replacement of a nonconforming use or structure may be modified under the provisions of YMC Chapter 15.17. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.100 Discontinuance of a nonconforming use or structure.

A nonconforming use or structure shall become discontinued when it is:

- A. Succeeded by a Class (1), (2), or (3) use;
- B. Succeeded by another use or structure that is less nonconforming;
- C. Discontinued and not reestablished within eighteen months, unless an extension is granted by the administrative official upon proper application. Denials of such requested extensions may be appealed in the same manner as Class (2) decisions under YMC Chapter 15.14; or
- D. Damaged and application for rebuilding or replacement is not made within eighteen months of such damage or resolution of court litigation or insurance settlement.

When a nonconforming use becomes discontinued, it shall be deemed that such use has ceased to exist and thus loses its status as a legal nonconforming use. Any subsequent use shall conform to the provisions of the use district in which it is located. (Ord. 2008-46 § 1 (part), 2008: Ord. 98-57 § 1 (part), 1998: Ord. 3019 § 63 (part), 1987: Ord. 2947 § 1 (part), 1986).

15.19.110 Sale of a nonconforming use or structure.

Property classed as nonconforming may be transferred without that fact alone affecting the right to continue the nonconforming use or use of a nonconforming structure. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.19.120 Critical area nonconforming uses and facilities.

With respect to critical areas, as provided under YMC 15.27.320, they are classified as either conforming uses with nonconforming structures or areas, or as nonconforming uses, as described in subsection A of this section. Both types have different review processes and decision criteria, as provided below in subsections B and C of this section.

A. Classification Criteria. There may be situations that do not conform to the standards or regulations. These situations are characterized as:

- 1. Nonconforming Uses. Uses of a structure or land that were lawfully established at the time of their initiation but are currently prohibited by YMC Title 15 are nonconforming uses, and may utilize structures or land areas that are also nonconforming. A nonconforming use that is discontinued for any reason for more than one year shall have a presumption of intent to abandon, shall not be re-established, and shall lose its

nonconforming status unless a variance or administrative adjustment is obtained to extend the length of time based on documentation showing that an intent to abandon did not exist during the period of discontinuance. Such a variance or administrative adjustment request may be submitted after the deadline has passed. In the case of destruction or damage where reconstruction costs exceed fifty percent of the assessed value, the structure shall not be rebuilt.

2. Conforming Uses with Nonconforming Structures or Areas. These are structures or areas for conforming uses that were lawfully established at the time of their initiation, but currently do not conform to the bulk, dimensional, or other development standards. Structures or areas in locations approved under a permit shall not be considered nonconforming. Nonconforming outdoor areas that have not been used or maintained for five consecutive years shall lose their nonconforming status and may not be reestablished.

3. Ordinary Care Required. Any nonconforming structure, area, or use may be maintained with ordinary care according to the provisions in YMC 15.27.140, 15.27.303, and 15.27.304, and does not require additional review under these nonconforming provisions.

B. Process.

1. Alterations to Conforming Uses with Nonconforming Structures or Areas. These uses shall be allowed under the following process requirements with the understanding that other permits or reviews may also be required under this title:

a. Those that do not increase the existing nonconformity and otherwise conform to all other provisions are allowed without additional review under these nonconforming provisions.

b. Those that increase the nonconformity, including establishing additional square footage within a buffer, are allowed without additional review under these nonconforming provisions; however, an adjustment must be obtained for the increased nonconformity.

c. Reconstruction or repair of a structure damaged less than seventy-five percent of the assessed value shall be processed as provided in subsections (B)(1)(a) and (b) of this section.

d. A nonconforming structure which is moved any distance shall be processed as provided in subsections (B)(1)(a) and (b) of this section.

e. Reconstruction or repair of structures destroyed or damaged seventy-five percent or more of the assessed value of the structure (not the whole property), including that resulting from neglect of maintenance or repair, shall be processed under these nonconforming provisions as a Type (2) review under this title.

2. Alterations to Nonconforming Uses.

a. Alterations to nonconforming uses involving expansion or alteration within an existing structure, but not including alterations to outdoor areas or expansions of the building's height or square footage, are allowed without additional review under these nonconforming provisions.

b. Alterations to nonconforming uses, including their nonconforming structures or areas that do not qualify under subsection (B)(2)(a) of this section, shall be processed under these nonconforming provisions as a Type (2) review, as provided by this title.

C. Decision Criteria. Decisions on projects that require review under the nonconforming provisions, as identified under subsection (B) of this section, shall be based on the general decision criteria found in YMC 15.27.311 together with the criteria below:

1. Decisions on Nonconforming Structures. Applications for conforming uses with nonconforming structures or areas that are subject to subsection (B)(1)(e) of this section, shall not be approved unless a finding is made that the project meets all of the following criteria:

- a. Using the original location will not place the structure or people in danger of a hazard;
 - b. The previous structure and any structural shore modification used to protect the structure did not increase hazards or damage to other properties; and
 - c. The previous structure and any shore modification used to protect the structure did not cause significant impacts to the functions and values of the critical area.
2. Decisions on Nonconforming Uses. A nonconforming use may not be altered or expanded in any manner that would bring that use into greater nonconformity. (Ord. 2008-46 § 1 (part), 2008).

Chapter 15.20

ADMINISTRATION

Sections:

- 15.20.010 Purpose.
- 15.20.020 Administrative official—Duties and powers.
- 15.20.030 Planning department—Duties and powers.
- 15.20.040 Hearing examiner—Duties and powers.
- 15.20.050 City of Yakima planning commission.
- 15.20.060 Legislative body.
- 15.20.070 No personal liability for acts or omissions.
- 15.20.080 Coordination with ~~county/city~~other jurisdictions.
- 15.20.090 Entrance onto private property.
- 15.20.100 Statement of zoning district by city ~~or county~~ officials/reliance limited.
- 15.20.110 Computation of time.

15.20.010 Purpose.

The purpose of this chapter is to define the responsibilities and requirements for the administration, enforcement, and interpretation of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.20.020 Administrative official—Duties and powers.

A. Office Established. The administrative official or his or her designee shall be that person designated by the legislative body to enforce the provisions of the building code and administer the assigned provisions of this title.

B. Authority and Duties. The administrative official shall have the following powers and responsibilities:

1. Receive, examine, and process applications for Class (1) uses;
2. Issue development permits for Class (1) uses in compliance with the provisions of this title. ~~Development permits for uses requiring review and approval by the administrative official or hearing examiner shall be issued only after receipt of a certificate of zoning review from the administrative official;~~
3. Receive, review, and adjudicate all site plans requiring Type (2) review;
4. Receive, review, and decide applications for temporary hardship unit permits, basic design standard adjustments, and any other application for permit or approval assigned to him under the provisions of this title;
5. Perform any other function or duty authorized or assigned to him under this title;
6. Conduct inspections to determine compliance or noncompliance with the terms of this title;
7. Revoke, in writing, a permit or approval issued contrary to this title or based on a false statement or misrepresentation in the application;
8. Stop, by written order, work being done contrary to the development permit or to this title. Such written order, posted on the premises involved, shall not be removed except by order of the building official. Removal without such order shall constitute a violation of this title;
9. Institute or cause to be instituted any appropriate action or proceedings to prevent the unlawful conversion, construction, reconstruction, alteration, occupancy, maintenance, use, repair, or erection of a structure or land; and/or restrain, correct, or abate such violation; and
10. Perform any other act or duty authorized or assigned to him under the provisions of this title.

All decisions of the administrative official shall be final unless appealed to the hearing examiner under YMC Chapter 15.16. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.20.030 Planning department—Duties and powers.

A. The planning department shall have the following powers and responsibilities:

1. Issue ~~certificates of zoning review~~ land use decisions under the provisions of this title;
2. Receive, record and file all applications for permits, approvals or other action, including Class-Type (2) and (3) review, and applications for appeals, interpretations, variances and rezones;
3. Review and decide modifications to approved Class (2) and (3) uses and existing Class (1), (2) and (3) uses under the provisions of Chapter 15.17 YMC;
4. Provide staff support to the city of Yakima planning commission on all long-range planning matters, proposed ordinance amendments, and rezone applications;
5. Immediately change the official zoning map to accurately reflect any amendments made by official action of the legislative body;
6. Provide staff support to the hearing examiner, city of Yakima planning commission, and legislative body;
7. Perform any other act or duty authorized or assigned to it under the provisions of this title;
8. Maintain the official index-record of all permits and approvals under this title. (Ord. 2011-12 § 8, 2011: Ord. 2010-22 § 4, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.20.040 Hearing examiner—Duties and powers.

A. Office. The office of the hearing examiner, herein referred to as hearing examiner, is hereby recognized. The hearing examiner shall perform the duties and functions established by this or any other title. Unless the context requires otherwise, the term “hearing examiner” as used herein shall include deputy examiners and examiners pro tem. ~~The hearing examiner shall be jointly hired and appointed by the city of Yakima and Yakima County.~~

B. Authorities and Duties. The examiner shall receive and examine available information, conduct public hearings and keep a record thereof, and enter decisions as provided for herein.

C. Effect of Decisions.

1. The decision of the hearing examiner on the following matters shall be final unless such decision is appealed to the legislative body pursuant to YMC 15.16. ~~049060~~ 060:
 - a. Type (3) review decisions;
 - b. Variance requests;
 - c. Home occupations;
 - d. Revocation proceedings under YMC Chapter 15.24;
 - e. Nonconforming uses;
 - f. Appeals of decision by the building official or administrative official; and
 - g. Any other authorized decision not expressly listed in subsection (C)(2) of this section.
2. The decision of the hearing examiner on rezone applications shall constitute a recommendation to the legislative body; provided, that rezone applications initiated by the city ~~or county~~ to implement a newly adopted or amended comprehensive plan, or which are of broad general applicability, shall be heard by the city

of Yakima planning commission. (Ord. 2011-12 § 9, 2011: Ord. 2010-22 § 5, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.050).

15.20.050 City of Yakima planning commission.

A. Establishment and Jurisdiction. The city planning commission is organized under RCW Chapter 35.63 and serves as a citizen advisory group to the legislative bodies on long-range planning matters.

B. Authority and Duties.

1. As the long-range planning body for the city of Yakima, the city planning commission shall monitor the growth and development of the city of Yakima and continually reevaluate and recommend revisions to the city of Yakima comprehensive plan and this title;
2. Investigate and make recommendations on other land use matters either requested by the elected officials or upon its own initiative;
3. Study and report on all proposed text amendments to this title;
4. Review and report to the ~~joint board~~city council at least once ~~every five a-a year~~years commencing on the ~~date of enactment of this title~~. This ~~five year~~report shall:
 - a. Analyze the extent to which development has actually occurred in the city of Yakima and evaluate this title in terms of its ability to guide growth in conformance with the city of Yakima comprehensive plan;
 - b. Recommend any changes in the zoning map which may be required in order to accommodate expected residential, commercial and industrial development in the Yakima urban area over the next twenty years;
 - c. Analyze the need for any other regulations imposed by this title in terms of changed conditions since the last review;
5. Advise the legislative body on land use matters;
6. Monitor the hearings of the hearing examiner in order to stay informed on development activities, the concerns of the public, and the decisions of the hearing examiner; and
7. Perform any other function authorized by law. (Ord. 2011-12 § 10, 2011: Ord. 2010-22 § 6, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.060).

15.20.060 Legislative body.

The legislative body shall have the following authority and duties:

1. Decide appeals from the hearing examiner as specified in YMC Chapter 15.16;
2. Amend this title through the procedures outlined in YMC Chapter 15.23;
3. Amend the Yakima urban area comprehensive plan; and
4. Perform any other act or duty authorized by law. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.070).

15.20.070 No personal liability for acts or omissions.

Each person responsible for the enforcement or administration of this title and each official responsible for making any decision or recommendation under this title is relieved from any personal liability whatsoever from any injury to persons or property as a result of his or her acts or omissions in good faith discharge of his or her responsibilities. If the person or member is sued for acts or omissions occurring in good faith discharge of his or her responsibilities, the ~~county~~city shall defend and provide legal representation of the person or member until final disposition of the

proceedings. The ~~county~~/city shall reimburse the person or official for any costs incurred in defending against alleged liability for the acts or omissions of the person or members in the good faith discharge of his or her duties. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.080).

15.20.080 Coordination with ~~county/city~~ other jurisdictions.

A. Purpose. While this title is enacted and administered ~~separately solely~~ by the city of Yakima/~~Yakima County~~, ~~it constitutes a significant joint planning effort and the furtherance of jointly developed and adopted land use policies and ordinances by the city of Yakima and Yakima County within the Yakima urban growth area. The~~ purpose of this section is to encourage and ~~to~~ authorize officials performing duties and responsibilities under this title to solicit and consider comments from ~~the other~~ governmental entity/entities ~~and to authorize the recognition of the joint nature of this title as a factor who may have a vested interest in the decision making process for land use applications under this title.~~

B. Coordinated Administration. Any official performing duties or responsibilities under the provisions of this title may solicit, receive, and consider comments by the county/city another governmental entity on any interpretive, administrative, enforcement, permit or approval, or other decision under the terms of this title. Uniform and coordinated administration, enforcement, and decision making under the terms of this title ~~between the city of Yakima and Yakima County is declared to be a significant policy/goal of this title and may be considered as a factor in any interpretive, administrative, enforcement, quasi-judicial, or legislative decision under the provisions of this title.~~ (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.090).

15.20.090 Entrance onto private property.

The department and any administrative official, or their authorized representatives, shall have the right of entry onto any premises under consideration for approval or renewal of any permit, certificate, or other approval authorized or required under the provisions of this title, for the purpose of inspecting and reviewing the premises in question. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.100).

15.20.100 Statement of zoning district by city ~~or county~~ officials/reliance limited.

Any person wishing to know and inquire of the ~~county~~/city as to the official zoning district classification allowed by this title for a specific parcel of property may submit a written request for such information to the appropriate department on forms prescribed by that department. Such written request shall specify or otherwise identify with particularity the parcel involved. The department shall respond to such requests and designate, if possible, the official zoning classification of such property. No person, contemplating the sale or purchase of any property, nor any person planning for or constructing improvements thereto, shall be entitled to rely on any oral or written representation of zoning district classification by any ~~county~~/city employee or official except when an official statement of zoning classification is issued in writing under the provisions of this section. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.110).

15.20.110 Computation of time.

In computing any period of time prescribed or allowed by this title, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.20.120).

Chapter 15.21

VARIANCES

Sections:

- 15.21.010 Purpose.
- 15.21.020 Application.
- 15.21.030 Criteria for variance approval.
- 15.21.040 Additional criteria for variance approval in the floodplain and airport overlay districts.
- 15.21.050 Public hearing by the hearing examiner.
- 15.21.060 Action by the hearing examiner.
- 15.21.070 Notice of examiner's decision.
- 15.21.080 Appeals.

15.21.010 Purpose.

The purpose of this chapter is to empower the hearing examiner to vary or adapt the strict application of any of the requirements of this title; provided, such variance would not be contrary to the public interest, and the strict application of the particular regulation would result in peculiar, exceptional, and undue hardship on the owner of the property. It is the intent of this title that the variance be used only to overcome some exceptional physical condition of land that prevents any reasonable use of the property. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.21.020 Application.

A written application requesting a variance shall be submitted to the department under the applicable provisions of YMC Chapter 15.11. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.21.030 Criteria for variance approval.

A variance shall be granted only when the applicant demonstrates that the variance will not be contrary to the public interest, is not self-created, and that practical difficulty and unnecessary hardship will result if it is not granted. The applicant must clearly establish and substantiate that the request for variance conforms to all the requirements and standards listed below:

- A. That granting the variance will be consistent with the general purpose and intent of this title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;
- B. That granting the variance will not permit the establishment of any use not permitted in a particular zoning district;
- C. That unique circumstances exist. There must exist special circumstances or conditions, fully described in the findings, applicable to the land or structures for which the variance is sought. The special circumstances or conditions must be peculiar to such land or structures and not generally applicable to land or structures in the neighborhood. The special circumstances or conditions must also be such that the strict application of the provisions of this title would deprive the applicant of reasonable use of such land or structure;
- D. That an unnecessary hardship exists. It is not sufficient proof of hardship to show that lesser cost would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases without knowledge of the restrictions. It must result from the application of this title to the land or structure. It must be suffered directly by the property in question, and evidence of variance granted under similar circumstances shall not be considered. Neither nonconforming uses nor neighboring lands or structures, nor buildings in other zoning districts, shall be considered as controlling factors for the issuance of a variance;
- E. That granting of the variance is necessary for the reasonable use of the land or structure; and
- F. That the variance as granted by the hearing examiner is the minimum variance that will accomplish this purpose. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 64, 1987: Ord. 2947 § 1 (part), 1986).

15.21.040 Additional criteria for variance approval in the floodplain and airport overlay districts.

When considering a variance in a floodplain or airport overlay, the hearing examiner shall consider, in addition to the conditions in YMC 15.21.030, all technical evaluations, standards applying to YMC Ch. 15.27 Part Four , any ~~the~~-overlay district, and:

1. The danger to life and property due to flooding or airport conflicts;
2. The importance of the services provided by the proposed use to the community;
3. The necessity to the facility of a waterfront or airport location;
4. The availability of alternative locations for the proposed use which are not subject to flooding or airport hazards;
5. The compatibility of the proposed use with existing and anticipated development; and
6. The relationship of the proposed use to the airport master plan and ~~floodplain management program~~FEMA 100-year floodplain. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.21.050 Public hearing by the hearing examiner.

A public hearing shall be held and notice provided under the provisions of ~~YMC Chapter 15.14~~YMC Title 16. The applicant shall appear in person or by agent or attorney. Failure to appear shall constitute sufficient cause for continuance of the hearing or denial of the application. Other parties may submit written comments or appear in person, by agent or attorney. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.21.060 Action by the hearing examiner.

Within ten days of the conclusion of the hearing, unless a longer period is agreed to in the record or in writing by the applicant, the hearing examiner shall file a written decision that shall include the following considerations:

1. The testimony at the public hearing;
2. The extent to which the proposed variance is in compliance with the requirements of YMC 15.21.030 and 15.21.040, if applicable;
3. That the variance, if granted, is the minimum variance that will make possible the reasonable use of the land or structure; and
4. The consistency of the variance with the general purpose and intent of this title.

The hearing examiner may attach conditions to the approval of a variance to minimize the impacts of such approval on the neighborhood. The application for a variance shall be denied if the hearing examiner finds that one or more of the provisions of YMC 15.21.030 are not met. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.21.070 Notice of examiner's decision.

Copies of the examiner's decision shall be sent by certified mail to the applicant. Copies of a "summary of decision" will be sent by regular mail to other parties of record in the case not later than three working days following the rendering of a written decision by the examiner. Copies of the complete decision or summary decision will be made available upon request. If the effect of the decision is a recommendation to the legislative body, the original thereof shall be transmitted to the legislative body. (Ord. 2008-46 § 1 (part), 2008: Ord. 93-81 § 50, 1993: Ord. 2947 § 1 (part), 1986).

~~Copies of the examiner's decision shall be mailed to the applicant and to other parties of record not later than three days following the filing of the decision by the examiner. "Parties of record" shall include the applicant and all other persons who specifically request notice of the decision by signing a register provided for such purpose at the public hearing. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).~~

15.21.080 Appeals.

Hearing examiner's decisions may be appealed to the legislative body in accordance with YMC Chapter 15.16. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.22

INTERPRETATIONS

Sections:

- 15.22.010 Purpose.
- 15.22.020 Written request for interpretation.
- 15.22.030 Review ~~by the hearing examiner~~process.
- 15.22.040 Notice of examiner's decision.
- 15.22.050 Use interpretations.
- 15.22.060 Interpretations of zoning district boundaries.
- 15.22.070 Appeals.

15.22.010 Purpose.

The purpose of this chapter is to define the responsibilities, rules and procedures for clarifying the text of this title, the zoning map that it incorporates, and the rules and regulations adopted pursuant to it. (Ord. 2008-46 § 1 (part), 2008; Ord. 2947 § 1 (part), 1986).

15.22.020 Written request for interpretation.

A written request for interpretation of any provision of this title, use or non-use, the zoning map, or any rule or regulation adopted pursuant to this title, shall be submitted to the department. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. (Ord. 2008-46 § 1 (part), 2008; Ord. 93-81 § 52, 1993; Ord. 2947 § 1 (part), 1986).

15.22.030 Review ~~by the hearing examiner~~process.

- A. Determination of complete application. Upon receipt of an application for interpretation, the Planning department shall within twenty-eight days provide the applicant with a written determination stating that the interpretation application is either complete or incomplete, as well as any other information which would make the application complete for processing in accordance with YMC § 15.04.010.
- B. Transfer of the record to the examiner. Upon determination that an interpretation application is ~~The complete, the~~ department shall, within five days of the receipt of any request for interpretation, shall forward all applications for interpretation to the hearing examiner for decision.
- C. Determination of public hearing. Within seven business days of receipt of the record from the Planning Department, ~~T~~the hearing examiner shall review the record and determine whether a public hearing will be required for the proposed interpretation, and shall notify the Planning Department accordingly.
- D. Public hearing required. Following any required public notice and comment required by 15.22.030 (F), the hearing examiner shall conduct the public hearing, consider any testimony, public comments received, and shall issue his or her written interpretation on the matter in ten working days from the conclusion of the public hearing.
- E. Public hearing not required. In the event that a public hearing by the hearing examiner is not required, the City of Yakima Planning Divisions shall forward any and all comments, and or information received during the public comment period to the examiner at the end of the public comment period. The examiner shall consider any public comments or information received during the public comment period, and shall issue his or her written interpretation on the matter in ten working days from receipt of all public comments from the Planning Division.
- F. Public Notice.
 - a. Notice of interpretation and public hearing for a site specific proposal. In the event that the hearing examiner determines that a public hearing is required, and the interpretation involves an underlying land use application, or site specific proposal, the City of Yakima Planning Department shall provide a notice of the interpretation, request for comment, and public hearing to the person

~~requesting the interpretation, all affected parties within a 300 ft. radius of the subject proposal as specified by YMC Ch. 16.05, and may refer any application or request for interpretation to any to any interested, affected, or concerned agencies or persons specified by the hearing examiner for review and comment.~~

~~b. Notice of interpretation for a site specific proposal without a public hearing. In the event that the hearing examiner determines that a public hearing is not required, and the interpretation involves an underlying land use application, or site specific proposal, the City of Yakima Planning Department shall provide a notice of the interpretation, and request for comment to the person requesting the interpretation, all affected parties within a 300 ft. radius of the subject proposal as specified by YMC Ch. 16.05, and to any interested, affected, or concerned agencies or persons specified by the hearing examiner.~~

~~c. Notice of interpretation for non-site specific proposals. Public notice and request for comment on non-site specific proposals shall be determined by the hearing examiner.~~

~~a.d. Publication of Hearing. In addition, the hearing examiner may, at his sole discretion, schedule and hold a public hearing on any proposed interpretation issue. Notice of any hearing held to consider an interpretation shall be mailed to the person requesting the interpretation and be published in the local newspaper once at least ten working days prior to the hearing. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 65, 1987: Ord. 2947 § 1 (part), 1986).~~

15.22.040 Notice of examiner's decision.

A. The hearing examiner shall mail a written copy of his or her interpretation to the ~~applicant, the Yakima County planning department, the city of Yakima department of community and economic development department of Community Development, and their respective administrative officials.~~ Such notice shall be provided within ~~thirty ten business~~ days from the ~~date of his receipt of an application for interpretation conclusion of the public hearing, or receipt of public comments from the Planning Division if no hearing is required,~~ or such longer period of time as may be agreed to by the City and applicant.

B. The hearing examiner shall clearly state the analysis and reasons upon which any interpretation is based and, if the interpretation is a use interpretation, how the interpretation is consistent with the specific conditions established in YMC § 15.22.050.

C. The department shall keep a copy of each interpretation on file and shall make a copy available for public inspection during regular business hours. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.22.050 Use interpretations.

The following conditions shall govern the hearing examiner in issuing use interpretations (see YMC 15.04.040):

~~A. A.—No use interpretation decision shall create, establish, or have the effect of creating a new definition or use within YMC Ch. 15.02, or YMC Ch. 15.04 Table 4-1. In the event that the hearing examiner determines that a proposed use interpretation would benefit by the addition of a new use classification within Table 4-1, or definition in YMC Ch. 15.02, the examiner shall render a decision on whether the proposed use interpretation meets or fits any of the existing use categories with Table 4-1, and shall render a separate recommendation to the City of Yakima Planning Division which sets forth the recommended language or uses to be added to the Yakima Municipal Code. Any recommendation by the City of Yakima hearing examiner proposing a new use or definition to the City of Yakima Municipal Code, shall be considered through the legislative process by the City of Yakima Planning Commission and Yakima City Council.~~

~~1-B.~~ No use interpretation shall vary the location or review requirements of any use listed in Table 4-1 or home occupation listed in Table 4-2.

~~2-C.~~ ~~B.~~—No use interpretation shall permit any use in any zoning district unless evidence is presented which demonstrates that it will comply with the intent and development standards established for the particular district.

~~a.A.~~ ~~C.~~—The following conditions shall govern the administrative official in making use interpretations for the State Fair Park (see YMC 15.04.200):

1. The administrative official shall be authorized to determine whether a new or expanded use not otherwise identified in YMC 15.04.200(B) is consistent with or similar to those listed prior to issuance of development permits. Such determination shall be made for the record in a written interpretation.
2. If the administrative official cannot conclusively determine that a new or expanded use is consistent with or similar to those identified within State Fair Park special definitions, the interpretation question may be referred to the hearing examiner as provided in this chapter.
3. Uses found by the administrative official or hearing examiner to be consistent with or similar to those special definitions of YMC 15.04.200(B) shall be subject to the appropriate permit review process and development standards (see YMC 15.05.020(L)). A use not found to be consistent with or similar to those uses may be considered by the hearing examiner as an unclassified use within the GC district (see YMC 15.04.040). (Ord. 2008-46 § 1 (part), 2008; Ord. 2005-81 § 6, 2005; Ord. 3019 § 66, 1987; Ord. 2947 § 1 (part), 1986).

15.22.060 Interpretations of zoning district boundaries.

The hearing examiner shall make interpretations when there is uncertainty regarding the zoning district boundaries shown on the official zoning map. The hearing examiner shall use the following rules to interpret the precise location of any zoning boundary shown on the official zoning map, boundaries shown as following or approximately following:

- A. City limits, platted lot lines or section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- B. Streets shall be construed to follow the centerlines of such streets.
- C. Railroad lines shall be construed to lie midway between the railroad lines' main tracks.
- D. Shorelines of lakes, rivers, and streams shall be construed to follow the shoreline and, in the event of natural change in the shoreline, shall be construed as moving with the actual shoreline.
- E. The centerline of streams, rivers, lakes, or canals shall be construed as following such centerlines. In the event of a natural change in the location of such streams, rivers, or other watercourses, the zoning boundary shall be construed as moving with the channel centerline.

Where a public right-of-way is vacated, the vacated area shall have the zoning district classification of the property to which it accrues. (Ord. 2008-46 § 1 (part), 2008; Ord. 2947 § 1 (part), 1986).

15.22.070 Appeals.

The hearing examiner's decision on an interpretation may be appealed under YMC ~~Chapter~~ ~~Ch.~~ 15.16. (Ord. 2008-46 § 1 (part), 2008; Ord. 2947 § 1 (part), 1986).

Chapter 15.23

AMENDMENTS AND REZONES

Sections:

- 15.23.010 Purpose.
- 15.23.020 Text amendments.
- 15.23.030 Rezones—Zoning map amendments.
- 15.23.040 Appeals.
- 15.23.050 Classification of annexed lands.

15.23.010 Purpose.

From time to time, a change in circumstance or condition may warrant a change in the zoning text or map created by this title. The purpose of this chapter is to establish the procedures to amend the zoning text and/or map when the proposed change would be consistent with the goals, policies, and intent of the Yakima urban area comprehensive plan. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.23.020 Text amendments.

A. Initiation. An amendment to the text, standards, procedures or other provisions of this title may be initiated by action of the legislative body with jurisdiction or the city planning commission as provided for under Yakima Municipal Code (YMC) Title 16.

B. Action by the Legislative Body. Any amendments in this title shall be by action of the legislative body with jurisdiction after a recommendation thereon from the city planning commission. Such action shall occur in accordance with the procedures set forth in RCW Chapter 35.63 and YMC Title 16 as it now exists or is hereafter amended. (Ord. 2010-22 § 7, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.23.030 Rezones—Zoning map amendments.

A. Initiation. An amendment to the zoning map may be initiated by:

1. Resolution of the legislative body with jurisdiction or the city of Yakima planning commission; or
2. A rezone application filed by the property owner(s).

B. Application. All rezone applications shall be filed with the planning department. The planning department shall process the application under the provisions of YMC ~~§ 15.11.080~~ § 15.11.070 & Title 16. The application shall include the information required in YMC ~~§ 15.11.030-020~~ and the signature of the owner(s) of the property.

C. Public Hearing by the Hearing Examiner or City of Yakima Planning Commission. Upon receipt of a complete application for a rezone, the planning department shall forward the application to the hearing examiner or city of Yakima planning commission for public hearing and review; provided, that rezone applications initiated by the city ~~or county~~ to implement a newly adopted or amended comprehensive plan, or which are of broad general applicability, shall be heard by the city of Yakima planning commission under the provisions of RCW Chapter 36.70. The public hearing shall be held and notice provided under the provisions of YMC ~~15.11.090~~ § 16.05.050. The applicant shall appear in person or by agent or attorney. Failure to do so shall constitute sufficient cause for continuance or denial of the requested action. Other parties may appear in person or by agent or attorney, or may submit written comments.

D. Recommendation by the Hearing Examiner or City of Yakima Planning Commission. Within ten days of the conclusion of the hearing, unless a longer period is agreed to in writing by the applicant, the hearing examiner or city of Yakima planning commission shall issue a written recommendation to approve, approve with conditions or deny the proposed rezone. The recommendation shall include the following considerations:

1. The testimony at the public hearing;
2. The suitability of the property in question for uses permitted under the proposed zoning;

3. The recommendation from interested agencies and departments;
4. The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Yakima urban area comprehensive plan and the intent of this title;
5. The adequacy of public facilities, such as roads, sewer, water and other required public services;
6. The compatibility of the proposed zone change and associated uses with neighboring land uses; and
7. The public need for the proposed change.

Notice of the hearing examiner's or the city of Yakima planning commission's recommendation shall be mailed to the applicant at the address provided on the application form. The decision of the hearing examiner or the city of Yakima planning commission on rezone applications shall constitute a recommendation to the legislative body.

E. Action by the Legislative Body. Upon receipt of the hearing examiner's or the city of Yakima planning commission's recommendation on a proposed rezone, the legislative body shall hold a public meeting and affirm or reject the hearing examiner's or the city of Yakima planning commission's decision.

The legislative body shall conduct its own public hearing when it rejects the recommendation of the hearing examiner, the city of Yakima planning commission, or desires additional public testimony. Notice of the public hearing shall be given in the manner set forth in YMC ~~15.11.090~~ Ch. 15.11 and Title 16. In either case, the findings of the legislative body shall include the considerations established in subsection E of this section.

F. Time Limit and Notification. Proposed amendments shall be decided by the legislative body as soon as practicable and the applicant shall be notified in writing whether the rezone has been granted or denied. (Ord. 2011-12 § 11, 2011: Ord. 2010-22 § 8, 2010: Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 67, 1987: Ord. 2947 § 1 (part), 1986).

15.23.040 Appeals.

The decision of the legislative body shall be final and conclusive unless within ~~thirty-two~~ thirty-one days from the date of final action an aggrieved party obtains an appropriate writ of judicial review from the Yakima County superior court for the purpose of reviewing the action taken. The appellant shall provide, or pay the cost of preparing, a verbatim transcript of the proceedings required for judicial review. With the consent of the superior court, the parties may agree to provide a verbatim audio record of the proceedings for review by the superior court. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.23.050 Classification of annexed lands.

The zoning of land hereafter annexed to the city of Yakima shall not change upon annexation; provided, the city council may initiate and consider a rezone of the property proposed for annexation under this chapter and may adopt the zone change upon annexation. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.24

REVOCATION OF PERMITS OR APPROVALS

Sections:

- 15.24.010 Authority.
- 15.24.020 Grounds for permit revocation.
- 15.24.030 Public hearing by the hearing examiner.
- 15.24.040 Decision by the hearing examiner.
- 15.24.050 Notice of examiner's decision.
- 15.24.060 Permit revocation not an exclusive action.
- 15.24.070 Appeals.
- 15.24.080 Violation.

15.24.010 Authority.

The hearing examiner may, under the provisions of this chapter and upon petition by the administrative official or the legislative body, revoke or modify any permit, ~~certificate of zoning review~~ zoning decision, variance, home occupation permit, temporary hardship permit, or other permit or approval previously made or granted under this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.24.020 Grounds for permit revocation.

Such revocation or modification shall be made only on one or more of the following grounds:

- A. That the approval was obtained by fraud or material misrepresentation; or
- B. That the permit or approval is being or has been recently exercised or used contrary to the terms or conditions of such permit or approval or in violation of any other statute, ordinance, or law and the department's or administrative official's efforts have been ineffective. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.24.030 Public hearing by the hearing examiner.

The hearing examiner shall hold a public hearing prior to the revocation or modification of any permit. Prior notice of such hearing and its purpose shall be given to the permit holder and the legal title holder of the property at least ten days prior to the hearing. If the subject property is not occupied, notice of the hearing shall be posted on the property in a conspicuous place and mailed to the last known address of the permit's applicant. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.24.040 Decision by the hearing examiner.

Within ten days of the conclusion of the hearing, unless a longer period is agreed to on the record or in writing by the applicant, the examiner shall issue a written decision to approve or deny the request for permit revocation. His or her written decision shall include the following considerations:

1. The testimony at the public hearing;
2. The recommendations from interested agencies and departments; and
3. The grounds for permit revocation established in YMC § 15.24.020.

The hearing examiner may, on his own motion or upon request of the permit holder, defer the effective date of any revocation and grant the permit holder an opportunity to affirmatively demonstrate to the examiner compliance with this title or correction of any violation. The examiner may grant or impose interim terms and conditions on the approved use, construction, alteration, or occupancy of the premises covered by the permit or approval. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.24.050 Notice of examiner's decision.

Copies of the examiner's decision shall be mailed to the permit holder, legal title holder, and the official or body petitioning for permit revocation no later than three days following the decision's filing. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.24.060 Permit revocation not an exclusive action.

This chapter is completely supplemental to other provisions of this title. Provisions herein are neither an exclusive remedy nor a prerequisite for any other administrative or judicial action authorized under this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.24.070 Appeals.

Any decision of the hearing examiner hereunder shall be final unless appealed in accordance with YMC Chapter 15.16. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.24.080 Violation.

Continued use or occupancy of land or structures after the effective date of any revocation, and with knowledge that a permit or approval has been revoked under this chapter, constitutes a special violation of this title and is punishable under YMC 15.25.020(B). (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.25

VIOLATIONS AND ENFORCEMENT AND ADMINISTRATION

Sections:

- 15.25.010 Violations unlawful.
- 15.25.020 Criminal defense penalties.
- 15.25.030 Civil penalty.
- 15.25.040 Continued violations—Remedies and penalties.
- 15.25.050 Persons liable.
- 15.25.060 Enforcement and administration.
- 15.25.070 Collection of civil penalties.
- 15.25.080 Disposition of civil penalties collected.

15.25.010 Violations unlawful.

Violations of, or failure to comply with, the provisions of this title shall be and hereby are declared to be unlawful. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.25.020 Criminal defense penalties.

A. General Penalties. Any person, firm or corporation violating any of the provisions of this title; violating or failing to comply therewith; or violating or failing to comply with any order made or issued pursuant thereto (unless otherwise stated) shall for each and every violation and noncompliance respectively be guilty of a misdemeanor. Any person so convicted shall be punished for each offense by a fine of not more than five hundred dollars; imprisonment for not more than ninety days; or both fine and imprisonment; provided, that except for the violations specified in subsection B of this section and YMC 15.25.060(D), a person not previously convicted of any violation of this title and who is not convicted of more than one violation shall be punished by a fine only, not to exceed five hundred dollars.

B. Special Penalty. Any person who continues to use or occupy land or structures with knowledge that a permit or approval has been revoked under YMC Chapter 15.24 shall, upon conviction thereof, be punished for each offense by a fine of not less than two hundred fifty dollars nor more than five hundred dollars; by imprisonment for not more than ninety days; or by both fine and imprisonment. The minimum fine imposed by this section shall not be suspended or deferred.

C. Abatement. Persons convicted for violations of this title may be ordered by the court to abate any use or structure in violation of the provisions of this title and shall be charged with the cost of abatement in the manner provided by law. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.25.030 Civil penalty.

In addition to any other penalty or remedy provided herein by law, a civil penalty in the amount of fifty dollars per day is hereby imposed upon any person, firm, or corporation that violates the provisions of this title. Such civil penalty shall accrue from the date set for correction established by the building and enforcement official pursuant to YMC 15.25.060(C), and shall continue until the violation is corrected. The civil penalty constitutes a personal obligation of the person or persons to whom the notice of noncompliance set forth in YMC 15.25.060(C) is in effect. The prosecuting attorney/city attorney, on behalf of the ~~county~~/city, is authorized to collect the civil penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional civil penalties so long as the violation continues.

If a violation is not corrected by the time established by the notice of noncompliance, or any extensions thereof, the building official shall cause a notice of lien to be filed in the Yakima County auditor's office. Said notice of lien shall contain the legal description of the property and a copy of the notice of violation, together with proof of service of the notice of noncompliance as set forth in YMC 15.25.060(C). Upon the date of filing such notice of lien, a lien shall exist in favor of the city ~~or county (whichever takes the action)~~ to secure the payment of the civil penalty imposed by this title. Any person who takes or acquires any interest in said property subsequent to filing of said

notice of lien shall take subject to said lien. The lien may be foreclosed by the ~~county~~/city in the manner provided by law for the foreclosure of mortgages. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.25.040 Continued violations—Remedies and penalties.

Any imposition of one penalty for any violation shall not excuse the violation nor permit it to continue. Any person, firm, or corporation shall be required to correct such violation or defects.

A. Each seven-day period in which a violation continues after the effective date for correction, as set forth in the notice of noncompliance provided in YMC 15.25.060, shall constitute a separate criminal offense unless time for correction is otherwise expressly extended in writing by the building and enforcement official, or unless otherwise stayed as authorized under this title; provided, that where the building and enforcement official has ordered any work or occupancies or where any certificate or permit of approval has been revoked or suspended, each and every day that such work or occupancy continues or is permitted to continue shall constitute a separate criminal offense.

B. Any person, firm, or corporation who violates the provisions of this title shall incur a cumulative civil penalty as set forth in YMC 15.25.030, in the amount of fifty dollars per day from the date set for correction, pursuant to said provisions, until the violation is corrected.

C. In addition to any criminal or civil proceedings authorized under this chapter to enforce this title, and in addition to any fine, imprisonment, or penalty provided for therein, continuing violations of this title may be enjoined or ordered abated in civil proceedings for injunction or abatement or other equitable relief. For purposes of such actions, violations of this title are declared to be public nuisances.

D. The prosecuting attorney/city attorney, on behalf of the ~~county~~/city and the public, may pursue civil remedies to enforce compliance with the provisions of this title. A private person directly affected by a violation of this title may pursue civil remedies as provided herein; as otherwise provided by law to enforce compliance with; or recover damages for its violation; provided, that a private person may not pursue to enforce the civil penalty as set forth in subsection B of this section and in YMC 15.25.030. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.25.050 Persons liable.

The owners, lessees, or tenants of any building, structure, premises, or part thereof, and the architect, builder, contractor, employee, agent, or other person who commits, authorizes, participates in, assists in, or maintains after notice a violation of this title may each be found guilty of a separate offense and suffer the penalties provided in YMC 15.25.020 and may be held jointly and severally liable in civil action brought to enforce the provisions of this title. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.25.060 Enforcement and administration.

A. General. The administrative official is hereby authorized and directed to enforce the provisions of this title. The administrative official may employ, appoint, and designate such employees, representatives, or officers to act on his ~~or her~~ behalf in the enforcement of this title under such control and supervision as the administrative official may specify. Any reference herein to the administrative official shall also refer to his ~~or her~~ duly authorized representatives. The administrative official or his ~~or her~~ authorized representatives shall, either upon complaint or upon his- ~~or her~~ own initiative, investigate potential violations of this title. It shall be the duty of all the city/~~county~~ officers to assist the administrative official or his ~~or her~~ authorized representatives in the performance of this duty. It shall be the duty of all officers charged with the enforcement of the law to assist in the enforcement of this title and its provisions.

B. Entrance onto Private Property. When necessary to perform any of his ~~or her~~ duties under this title or to investigate upon reasonable cause or complaint the existence or occurrence of a violation of this title, the administrative official may enter onto property to inspect the same or to perform any duty imposed or authorized by this title; provided, that if such building or premises be occupied and not a public place he shall first present proper credentials and request entry, and if such building or premises be unoccupied he shall first make a reasonable effort to locate the owners or other persons having charge or control of the building or premises and request entry. If such entry is refused, the administrative official or his ~~or her~~ authorized representative shall have recourse to every remedy provided by law to secure entry. The right of entry authorized for this section extends to any employee, officer, or person who accompanies the building and enforcement official or his ~~or her~~ authorized representatives.

All permits and approvals issued under the provisions of this title are hereby conditioned on free access by the administrative official to the property, premises, and/or structures involved during any period of construction, improvement, or change, for inspections to assure compliance with this title and any conditions of approval for such permit or approval. The administrative official may enter onto private property, premises, and/or structures during any such period of construction, improvement, or change being done pursuant to a permit or approval for such purposes; provided, that if the property, premises, or structures are occupied he shall first notify the occupant prior to entry.

C. Notice of Noncompliance. If the administrative official determines that any activity, condition, structure, or use exists that does not conform to the provisions of this title, he may issue a notice of noncompliance directed to the record owner of the property and/or to such other persons as are causing or contributing to such noncompliance. A notice of noncompliance shall contain:

1. The name and address of the record owner or other person to whom the notice of noncompliance is directed;
2. The street address when available or a legal description sufficient for identification of the structure, premises, or land upon which the noncompliance is occurring;
3. A statement of the action required to be taken as determined by the administrative official and a date for correction, which shall be not less than three weeks from the date of service of the notice of noncompliance unless the administrative official has determined the noncompliance to be immediately hazardous;
4. A statement that a cumulative civil penalty in the amount of fifty dollars per day shall be assessed against the person or persons to whom the notice of noncompliance is directed for each and every day following the date set for correction on which the noncompliance continues; and
5. A statement that the administrative official's determination of noncompliance may be appealed to the hearing examiner upon written notice of appeal together with the payment of a filing fee in accordance with YMC Chapter 15.16, that such appeal shall be filed with the department issuing the notice within fifteen days of service of the notice of noncompliance, and that the per diem civil penalty shall continue to accrue during the pendency of such administrative appeal but is dependent on the outcome of the appeal; and
6. A statement that the civil penalty constitutes a lien on the property where the violation is occurring and that such lien may be foreclosed and property sold to satisfy said lien and penalty.

The notice of noncompliance shall be served upon the person or persons to whom it is directed either personally, in the manner provided for by personal services of summons and complaints, or by mailing a copy of the notice of noncompliance by certified mail, postage prepaid, return receipt requested, to such person at his or her last known address. Proof of such service shall be made at the time of service by a written declaration under penalty of perjury executed by the person making service, declaring the time, date, and manner by which service was made.

A notice of noncompliance issued pursuant to this section constitutes the determination from which an administrative appeal may be taken pursuant to the provisions of YMC Chapter 15.16. The cumulative civil penalty provided for in YMC 15.25.030 and 15.25.040 shall continue to accrue during the pendency of such appeals but shall be dependent on the outcome of the appeal.

For good cause shown, the administrative official may extend the date set for correction of the notice of noncompliance; provided, that such an extension shall not affect or extend the time in which an administrative appeal must be commenced, nor shall such extension be for a period of time in excess of one hundred eighty days.

D. Stop Orders. If the administrative official determines that any activity is being established or any improvement is being erected or altered that does not conform to this title, he may issue an order to stop the activity. The administrative official shall prominently post this order on the subject property and shall make reasonable attempts to forward a copy of the order to the owner of the property, the person in charge of the property or occupant thereof, or the person causing the activity to be established or conducted or the improvement to be erected or altered. When any order to stop activity has been posted on the subject property it is unlawful for any person with active or

constructive knowledge of the order to conduct the activity or do the work covered by the order until the administrative official has removed the posted copy of the order and issued a written authorization for the activity or work to be continued. Violation of an order to stop activity constitutes a separate offense under the provisions of YMC 15.24.020.

E. Citations. Whenever the administrative official determines that administrative effort to correct violations of this title would be, or has been, useless or ineffective, he may cause to be initiated criminal proceedings for such violation or violations. In addition to any other means authorized by law for initiation of criminal complaints, the administrative official has the authority to issue and serve a citation when the violation is committed in his or her presence or to directly file a citation in court if a person refuses to sign a promise to appear or if upon investigation he has reasonable cause to believe that a person or persons has committed a violation of this title. Such citations shall be on forms prescribed or approved by the administrator for the courts of the state of Washington. The administrative official is hereby granted the authority to and shall directly file such citations in a court of competent jurisdiction, which filing shall constitute a lawful complaint for initiating a criminal charge for violation of the ordinance codified in this title. The court shall issue process for the attendance of the person charged as otherwise allowed or prescribed by law or court rule. It shall be the responsibility of the prosecuting authority of the appropriate jurisdiction to prosecute such cases in the name of the city/~~county~~. (Ord. 2008-46 § 1 (part), 2008: Ord. 3019 § 68, 1987; Ord. 2947 § 1 (part), 1986).

15.25.070 Collection of civil penalties.

The administrative official and the prosecuting authority of the ~~county~~/city are hereby authorized to take action to collect and/or enforce any civil penalty imposed by this title. When a settlement or compromise of any civil penalty would be in furtherance of the objectives and purposes of this title, the prosecuting authority may settle or compromise any civil penalty in an amount deemed appropriate by such authority. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

15.25.080 Disposition of civil penalties collected.

Any civil penalties assessed herein and collected shall be paid into the general fund of the ~~county~~/city. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986).

Chapter 15.26

LAND DEVELOPMENT FEES

Sections:

~~15.26.010 Interest—Land development fees.~~

15.26.010 Interest—Land development fees.

A. Intent. It is the purpose of this chapter to consolidate land development fees formerly charged under environmental checklists and statements, as well as fees for street and alley vacations, shoreline permits, and pedestrian skybridges into one chapter. Consolidation will provide easy access to related charges and create a simplified means for future fee adjustments.

B. Land Use Application Fees.

Land Use Permit Type	2011 City Fee
Zoning Ordinance (YMC 15)	
Administrative adjustments	\$340.00
Class 2 review	\$365.00
Class 3 review	\$700.00
Variance	\$700.00
Rezone (base rate)	\$560.00
Critical area review	\$200.00
Interpretation with hearing	\$435.00
Modification of approved use	\$100.00
Nonconforming use/building	\$280.00
Overlay districts	\$340.00
Planned development	\$560.00
Shoreline permit	\$355.00
**Fees for zoning applications are consolidated using the highest fee only.	
Subdivision Ordinance (YMC 14)	
Preliminary long plat (base rate)	\$380.00
Preliminary short plat	\$340.00
Long plat alteration or easement release	\$380.00
Binding site plan, preliminary	\$420.00
Final long plat, binding site plan	\$270.00
Final short plat	\$90.00
Short plat alteration or easement release	\$245.00
Short plat exemption	\$145.00
Right-of-way vacation	\$420.00

Land Use Permit Type	2011 City Fee
State Environmental Policy Act (YMC 6.88)	
SEPA checklist	\$265.00
Other Applications	
Comprehensive plan amendment (base)	\$500.00
Appeals to city council	\$340.00
Appeals to hearing examiner	\$580.00
Parade and special event permit	\$0.00
Traffic concurrency	\$250.00

(Ord. 2011-02 § 1 (Att. A), 2011; Ord. 2005-84 § 1, 2005; Ord. 2001-76 § 2, 2001; Ord. 99-13 § 1, 1999; Ord. 98-9 § 1, 1998; Ord. 97-09 § 1, 1997; Ord. 96-19 § 1, 1996; Ord. 95-5 § 1, 1995; Ord. 94-7 § 1, 1994; Ord. 93-10 § 1, 1993).

Chapter 15.27

CRITICAL AREAS*

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- 15.27.110 Language interpretation.
- 15.27.120 Purpose of chapter.
- 15.27.130 Intent of chapter.
- 15.27.140 Applicability.
- 15.27.150 Science and protection of anadromous fish.
- 15.27.160 Administrative authority.
- 15.27.170 Severability.

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- 15.27.200 Definitions generally.

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* Prior legislation: Ord. 2008-04.

Part One. General Provisions

15.27.100 Chapter and authority.

This chapter is established pursuant to RCW 36.70A.060 (Growth Management Act Natural Resource Lands and Critical Areas—Development Regulations), RCW Chapter 43.21C (State Environmental Policy Act), and federal requirements for eligibility in the National Flood Insurance Program, pursuant to 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.” (Ord. 2008-46 § 1 (part), 2008).

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 its most reasonable application.

1. “Shall” is mandatory;
2. “May” is discretionary and does not impose a requirement;
3. “Should” is always advisory;
4. “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. (Ord. 2008-46 § 1 (part), 2008).

15.27.120 Purpose of chapter.

The purpose of this chapter is to establish a single, uniform system of procedures and standards for development within designated critical areas within the incorporated city of Yakima and its urban growth area. (Ord. 2008-46 § 1 (part), 2008).

15.27.130 Intent of chapter.

A. This chapter 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), 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 nonconforming use and facility provisions.

B. 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; or
5. Prohibit the use of valid water rights. (Ord. 2008-46 § 1 (part), 2008).

15.27.140 Applicability.

A. 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 Part Four of this chapter will continue to apply as determined by YMC 15.27.400 through 15.27.406:

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 nonconforming uses.
2. It is the intent of this chapter to permit these pre-existing legally nonconforming uses and structures to continue until such time as conformity is possible:
 - a. Critical areas on federally owned lands are not subject to the provisions 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 15.27.200, which 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, oversteepened slope hazard areas, landslide hazard areas and suspected geologic hazard areas. Other critical areas provisions continue to apply.

B. The adoption and amendment dates of the relevant regulations are provided below:

1. Critical areas ordinance adopted 1998;
2. Flood hazard ordinance adopted 1981; and
3. Other rules and regulations, including the city of Yakima subdivision ordinance (YMC Title 14), the city of Yakima urban area zoning ordinance (YMC Title 15), and the buildings ordinance (YMC Title 11), shall remain in full force and effect as they apply to a designated critical area. Wherever the requirements of this chapter conflict with the requirements of the Yakima urban area zoning ordinance, the subdivision ordinance or any other lawfully adopted municipal rules or regulations, the most restrictive standards shall apply. (Ord. 2008-46 § 1 (part), 2008).

15.27.150 Science and protection of anadromous fish.

This chapter has been updated consistent with the requirements for using the best available science and protection of anadromous fish as required by:

- A. RCW 36.70A.172, Critical Areas—Designation and Protection—Best Available Science to Be Used; and
- B. WAC 365-195-900 through 365-195-925, Growth Management Act—Procedural Criteria for Adopting Comprehensive Plans and Development Regulations—Part 9—Best Available Science. (Ord. 2008-46 § 1 (part), 2008).

15.27.160 Administrative authority.

A. The city of Yakima community ~~and economic~~ development department—code administration and planning division shall be responsible for the general administration of this chapter. The director of the community ~~and economic~~ development department or the director’s designee shall serve as the administrative official of this chapter. The administrative official shall establish procedures for implementation of this chapter.

B. A written request for an interpretation of any provision of this chapter may be submitted to the administrative official. Each request shall set forth the specific provision(s) to be interpreted, and the facts of the specific situation giving rise to the request. Interpretations shall be processed in accordance with YMC Chapter 15.22, Interpretations. (Ord. 2009-42 § 1, 2009; Ord. 2008-46 § 1 (part), 2008).

15.27.170 Severability.

If any provision of this chapter or its application to any person or legal entity or circumstances is held to be invalid, the remainder of said chapter or the application of the provision to other persons or legal entities or circumstances shall not be affected. (Ord. 2008-46 § 1 (part), 2008).

Part Two. Definitions

15.27.200 Definitions generally.

Definitions listed in Part Two of this chapter shall be applied to the regulation, review, and administration of all critical areas, including flood hazard areas, unless the definition itself identifies the term as applying to flood hazard administration, in which case the definition only applies to that situation.

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

“Adjacent” means to be nearby and not necessarily abutting.

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

“Applicant” means a person, party, firm, corporation, or other legal entity that proposes development, construction, or use on a parcel of property.

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

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

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

“Base flood,” for purposes of administering Part Four, means the flood having a one percent chance of being equaled or exceeded in any given year. (See IBC Section 1612.2.)

“Base flood elevation,” for purposes of administering Part Four, means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum, North American Vertical Datum, or other datum specified on the Flood Insurance Rate Map. (See IBC Section 1612.2.)

“Basement,” for purposes of administering Part Four, means any area of the building having its floor subgrade (below ground level) on all sides. (See IBC Section 1612.2.)

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

“Bedrock” means the solid rock underlying unconsolidated surface materials.

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

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

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

“Breakwater” means a fixed or floating off-shore structure that protects the shore from the forces of waves or currents.

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

“Building official” means the manager of the code administration and planning division or a designee.

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

“Classification” means value and hazard categories to which critical areas and natural resource lands will be assigned.

“Clearing” means the removal of timber, brush, grass, ground cover or other vegetative matter from a parcel of land.

“Compaction” means compressing soil or other material through some mechanical means to make it denser.

“Construction” means the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a parcel of land.

“Construction materials,” for the purpose of Part Four, means all new construction and substantial improvements shall be constructed with material and utility equipment resistant to flood damage. See Technical Bulletin 2-93 for qualifying materials. (FEMA Section 60.3(a)(3)(ii))

“Construction methods,” for the purpose of Part Four, means all new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

“Critical aquifer recharge area” means an area with a critical recharging effect on an aquifer(s) used for potable water or areas where a drinking water aquifer is vulnerable to contamination that would affect the potability of the water.

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

“Department” means the city of Yakima department of community ~~and economic~~ development.

“Development” means the division of land into lots or parcels in accordance with the city’s subdivision ordinance (YMC Title 14), and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or temporary modification of a parcel of land up to, but not including, “construction” as defined in this chapter. For the purpose of YMC 15.27.400 through 15.27.436, “development” also means any manmade change to improved or unimproved real estate located within a special flood hazard area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or permanent storage of equipment and “works” as defined in this chapter. (See IBC Section G 201.2)

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

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

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

“Earth material” means any rock, natural soil, organic material or combination thereof.

“Enhance” means to strengthen any of the basic functional properties listed in YMC 15.27.504 that exist but do not perform at optimum efficiency. “Optimum” refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

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

“Erosion” means the wearing away of the earth’s surface as a result of the movement of wind, water, or ice.

“Excavation” means the mechanical removal of earth material.

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

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

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

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

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

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

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

“Floodproofing,” for purposes of administering Part Four, means any combination of structural and nonstructural changes or adjustments to structures, which reduce or lessen flood damages to lands, water or wastewater treatment facilities, structures and contents of buildings.

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

“Floodway fringe,” for purposes of administering Part Four, means that portion of a floodplain which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

“Grade” means the vertical location of the ground surface.

“Grade, existing” is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification.

“Grade, finish” is the final grade of the site which conforms to an approved plan.

“Grade, natural” is the grade as it exists or may have existed in its original undisturbed condition.

“Grade, rough” is a stage where grade conforms approximately to an approved plan.

“Grading” means any excavation, filling, or combination thereof.

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

“Hydrologically related critical areas (HRCA)” include all those areas identified in YMC 15.27.502, which are important and deserving of protection by nature of their value for the functional properties found in YMC 15.27.504.

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

“Intermittent stream” means a stream which flows only during certain times of the year, with inputs from precipitation and groundwater, but usually more than thirty days per year. Groundwater association generally

produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

“Lake” or “pond” means an inland body of standing water. The term can include the reservoir or expanded part of a river behind a dam.

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

“Manufactured home” means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities and is used for human occupancy as a residential dwelling. The term “manufactured home” shall include “mobile home” for regulatory purposes under this chapter. The term shall not include “recreation vehicle,” “commercial coach,” “camping vehicle,” “travel trailer,” “park trailer,” “tip-out,” and any other similar vehicle, which is not intended, designed, constructed, or used as a single-family dwelling.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale pursuant to this title.

“Manufactured home park or subdivision, existing” means a manufactured home park or subdivision that was completed before December 15, 1981, the effective date of the floodplain management regulations.

“Minerals” mean gravel, sand, and metallic and nonmetallic substances of commercial value.

“Mining” means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. (See YMC 15.27.518.)

“Minor revision” includes minor changes in facility orientation or location, minor changes in structural design that do not change the height or increase ground floor area, and minor accessory structures (such as equipment covers or small sheds near the main structure, etc.).

“Native” means indigenous to or originating naturally within the city of Yakima and surrounding areas.

“Natural conditions” mean those conditions which arise from or are found in nature and not modified by human intervention.

“New construction,” for purposes of administering Part Four of this chapter, means the start of construction after construction plans were submitted to the city and the building division reviewed and approved the construction plans to create a structure.

“Nonconforming structure,” for purposes of administering Part Four of this chapter, means a structure which was lawful prior to the adoption or amendment of this chapter, but which fails by reason of such adoption or amendment to conform to the present requirements of the zoning district in which it is located. In addition, the structure may not be permitted as a new structure under the terms of this chapter because the structure may not be in conformance with the applicable elevation and/or floodproofing requirements.

“Nonconforming use,” for purposes of administering Part Four of this chapter, means a use of land or structure which was lawfully established and maintained prior to the adoption or amendment of this chapter, but does not conform to this chapter for the zoning district in which it is located. In addition, the use may not be permitted as a new use under the terms of this chapter because the use may not be in conformance with the applicable elevation and/or floodproofing requirements.

“Normal appurtenances” include: garages, decks, driveways, utilities, fences, and grading, which do not exceed two hundred fifty cubic yards.

“Normal repair” means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction.

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

“Perennial stream” means a stream that flows year-round in normal water years.

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

“Qualified professional” means a person with experience, training, expertise, and related work experience appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). The professional shall provide their qualifications to the administrative official to ensure the professional has the acceptable level of qualifications and experience for the relevant critical area they will be working in.

“Recreation vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily for temporary living quarters used during recreational, camping, travel, or seasonal conditions.

“Restore” means to re-establish the basic functional properties listed in YMC 15.27.504 that have been lost or destroyed through natural events or human activity with measures such as revegetation and removal or treatment of toxic materials.

“Restoration” does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions; but rather the return of a critical area with vegetation and addressing of any toxic materials from the date of the permit.

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

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

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

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

“Shoreline,” as used in this chapter, means those water areas, the associated features, and the land areas that are subject to the State Shoreline Management Act, as defined in RCW 90.58.030 and the city of Yakima’s current shoreline master program (definitions).

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

“Single-family residence” means a detached dwelling designed for and occupied by one family, including those structures and developments which are a normal appurtenance.

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

“Solid waste” means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, wood waste, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

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

“Start of construction,” for purposes of administering Part Four, means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or land preparation, such as clearing, grading and filling, the installation of streets or walkways, excavation for a basement, footings, piers or foundations, or the erection of temporary forms.

“Stream” means water contained within a channel either perennial, intermittent, or ephemeral. Streams include both natural watercourses or those modified by man (example: stream flow manipulation, channelization, and relocation of the channel). They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses except those that are located within existing wetland or streams.

“Stream corridor,” as used in this chapter, means features listed and described in YMC 15.27.502.

“Structure” means anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height, and including gas or liquid storage tanks when located aboveground.

“Substantial improvement,” for purposes of administering Part Four, means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either:

1. Before the improvement or repair is started; or
2. Before the damage occurred to a structure.

For the purposes of this definition, “substantial improvement” occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The total value of all improvements to an individual structure undertaken subsequent to March 4, 1986, the effective date of this title, shall be used to define “substantial improvement” for said structure. The term does not, however, include either:

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

Use. See “use” as defined in YMC Chapter 15.02.

“Utility equipment,” for the purposes of Part Four, means all 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.

“Vegetative buffer” or “buffer” means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide support for the performance of the basic functional properties of a stream corridor, wetland and other hydrologically related critical areas as set forth in YMC 15.27.504 and 15.27.603.

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

“Wildlife” means all species of the animal kingdom whose members exist in Washington in a wild state, which includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development.

“Wildlife habitat” means an area of climate, soils, vegetation, relationship to water, location and/or other physical properties which are identified as having a critical importance to the maintenance of wildlife species.

“Works” means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved road, abutment, projection, excavation, channel rectification, or improvement. (Ord. 2008-46 § 1 (part), 2008).

Part Three. Application and Review Procedures

Article I. General Provisions

15.27.300 Critical area development authorization required.

A. 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 15.27.303. Exemptions, as provided for in YMC 15.27.304 through 15.27.306, shall be considered as development authorization.

B. 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.

C. 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.

D. Development authorizations issued in accordance with this chapter shall continue with the land and have no “sunset clause” unless otherwise stated in the development authorization.

E. 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. (Ord. 2008-46 § 1 (part), 2008).

Article II. Inquiry and Early Assistance

15.27.301 Critical area identification form and critical area report requirements.

- A. 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.
- B. 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.
- C. 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 15.27.314 and 15.27.315, except as provided below:
1. 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.
 2. 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.
 3. 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:
 - a. The administrative official is sufficiently able to determine the existence, location and type of the critical area;
 - b. The project scale or nature is such that a specialist is not necessary to identify impacts and mitigation; and
 - c. The applicant agrees to provide mitigation the administrative official deems adequate to mitigate for anticipated impacts.
- D. Reports will generally fall into the following groups:
1. Determining the absence of a critical area;
 2. Determining the existence, location and type of a critical area;
 3. Determining impacts of an encroachment on a critical area and general mitigation measures; and

4. Developing a compensatory mitigation plan.

E. 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 Wetland Mitigation in Washington State, Parts 1 and 2 (March 2006 or as updated). (Ord. 2008-46 § 1 (part), 2008).

15.27.302 ~~Pre-application~~ 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:

- A. Establish the scope of the project and identify potential concerns that may arise;
- B. Identify permits, exemptions, and authorizations which the project proponent may need to obtain;
- C. 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;
- D. Provide the proponent with resources and technical assistance (such as maps, scientific information, other source materials, etc.); and
- E. Determine whether there is a need for a preliminary site assessment. (Ord. 2008-46 § 1 (part), 2008).

Article III. Abbreviated Review Alternatives

15.27.303 Minor activities allowed without a permit or exemption.

This chapter shall be inapplicable to the following actions (YMC 15.27.140(B)):

- A. 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 noninvasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas;
- B. Minor maintenance and/or repair of structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing replacement, reroofing, etc. Cleaning, operation and maintenance of canals, ditches, drains, wasteways, etc., is not considered additional earthwork, as long as the cleared materials are placed outside the stream corridor, wetlands, and buffers;
- C. Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education or scientific research;
- D. Creation of private trails that do not cross streams or wetlands that are less than two feet wide and do not involve placement of fill or grubbing of vegetation;
- E. Maintenance and normal work of the greenway pathway and grounds;
- F. Planting of native vegetation;
- G. Noxious weed control outside vegetative buffers identified in YMC 15.27.514; and
- H. 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:

1. Hand removal/spraying of individual plants or other acceptable method approved by the administrative official;
2. No area-wide vegetation removal/grubbing. (Ord. 2008-46 § 1 (part), 2008).

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) of this section, 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.

- A. Exemptions shall be construed narrowly and any exempted development shall be consistent with the policies and provisions of this chapter.
- B. If any part of a proposed development is not eligible for an exemption, then a development permit is required for the entire proposed project.
- C. The burden of proof that a development or use is exempt is on the applicant.
- D. 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.
- E. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas.
- F. The proponent of an exempt activity shall submit a written request for a documented exemption which states the following:
 1. Why the exemption is being sought.
 2. 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.
- G. 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.
- H. 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 this chapter:
 1. Those activities listed in YMC 15.27.305;
 2. Those activities listed in YMC 15.27.306; and

3. Those activities listed in YMC 15.27.403 are exempt from the flood hazard permit requirements of Part Four of this chapter, Flood Hazard Areas. (Ord. 2008-46 § 1 (part), 2008).

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:

- A. 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 residence” and “normal appurtenances” definitions, YMC 15.27.200). Applications for development within critical areas or their buffers shall follow the procedures of YMC 15.27.317.
 1. Construction shall not involve placement of fill in any wetland or at locations waterward of the ordinary high water mark; and
 2. Construction authorized under this exemption shall be located landward of the ordinary high water mark;
- B. Single-family residence bulkheads, which include 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.
 1. Normal protective bulkheads are not exempt if constructed for the purpose of creating dry land.
 2. Bioengineering options shall be considered by the administrative official or designee prior to exemption of subsections (B)(3) and (B)(4) of this section.
 3. When repairing an existing bulkhead by construction of a vertical wall, it shall be constructed no further waterward of the existing bulkhead.
 4. Bioengineered erosion control projects may be considered a bulkhead when the project has been approved by the Department of Fish and Wildlife;
- C. 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.)
 1. Except where repair involves total replacement or causes substantial adverse effects to the environment.
 2. Replacement of nonconforming uses or facilities may also be subject to YMC Chapter 15.19;
- D. Emergency construction for protecting property from damage by the elements. The following criteria must exist to qualify any action under an emergency provision:
 1. There must be an immediate threat to life, public or private property, or the environment arising from a natural condition or technical incident.
 2. The emergency response must be confined to the action necessary to protect life or property from damage.
 3. The scope of the emergency response must be limited to the work necessary to relieve the immediate threat.
 4. The emergency response applies only to the period of time when the actual emergency exists.
 5. 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;
- E. Construction of a dock for the use of a single-family or multiple-family residence;

- F. The construction of canals, waterways, drains, reservoirs, or other manmade facilities as a part of an irrigation system;
- G. Any project with certification from the governor pursuant to RCW Chapter 80.50 (Energy Facilities—Site Locations);
- H. Watershed restoration projects pursuant to RCW 89.08.460;
- I. Site exploration and investigation activities required for a development permit; provided, that:
 - 1. The activity will have no significant adverse impact on the environment;
 - 2. The activity does not involve the installation of any structure; and
 - 3. Upon completion of the activity, the vegetation and land configuration of the site are restored to conditions as they existed prior to the activity;
- J. 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 Chapter 43.21C (SEPA);
- K. A public or private project to improve fish or wildlife habitat or fish passage, if:
 - 1. The project has been approved by the Department of Fish and Wildlife;
 - 2. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to RCW Chapter 75.20 (Hydraulics Code);
 - 3. The administrative official has determined that the project is consistent with this chapter;
 - 4. 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;
- L. Hazardous substance remedial actions pursuant to RCW Chapter 70.105D (Model Toxics Control Act);
- M. The removal of trees which are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private or public property, from critical areas and their buffers. (Ord. 2008-46 § 1 (part), 2008).

15.27.306 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:

- A. Additions to or alteration of existing single-family residences;
- B. Uses and surface disturbances (clearing and grubbing) that do not include excavation, fill or irrigation;
- C. Structures less than one hundred twenty square feet; and
- D. Oil, gas, wind, or other exploration that does not include explosions, road construction, excavation or fill. (Ord. 2008-46 § 1 (part), 2008).

15.27.307 Mitigation requirements.

- A. All mitigation shall be sufficient to maintain the functions and values of the critical area;
- B. All development shall demonstrate that reasonable efforts have been examined to avoid and minimize impacts to critical areas; and

C. When an alteration to a critical area is proposed, it shall be avoided, minimized, or mitigated for in the following order of preference:

1. Avoiding the impact;
2. 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);
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment as appropriate;
4. Reducing or eliminating the impact by preservation and maintenance operations;
5. Compensating for the impact by replacing or providing substitute resources or environments; and
6. Monitoring the impact and taking appropriate corrective measures;

D. 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);

E. 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. (Ord. 2008-46 § 1 (part), 2008).

Article IV. Review Process

15.27.308 Application submittal.

A. 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 one to twenty showing:

1. Dimensions of all sides of the parcel;
2. Size and location of existing and proposed structures;
3. Excavation, fill, drainage facilities, impervious surfaces, topography, slope;
4. Other information as needed to determine the nature and scope of the proposed development; and
5. Location of all critical areas such as those identified in YMC 15.27.314.

B. The submittal shall also include all required critical areas reports prepared in conformance with YMC 15.27.314 and 15.27.315.

C. 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 preapplication conference (YMC 15.27.302). (Ord. 2008-46 § 1 (part), 2008).

15.27.309 Determination of review process.

A. The administrative official or designee shall determine from the application submittal, and other available information, what type of permit and/or review will be required under this chapter.

B. Specific information of permit type, review and process can be found in subsequent sections of Part Three of this chapter. However, a description of each type of permit or review is provided in Table 27.3-1. More than one permit or review may be needed for a project dependent upon project complexity.

Table 27.3-1

General Permits or Reviews

Standard Development. Standard development projects include any development not subject to RCW Chapter 90.58, the Shoreline Management Act.
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 15.27.305 through 15.27.306 and 15.27.403.
Specific Permits
Adjustment. An administrative adjustment is used outside shoreline jurisdiction when a project requires a reduction or adjustment to a development standard.
Nonconforming Use or Facility Alteration. A nonconforming 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 Part Four, YMC 15.27.400 through 15.27.436. It is focused mainly on construction methods, but may include site design to minimize impacts to adjacent properties or resources, or to locate the proposed development in areas where depth and velocity of floodwaters during the base flood do not exceed the current standards for construction of human-occupied structures or safe access.

(Ord. 2008-46 § 1 (part), 2008).

15.27.310 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 Part Four shall follow the development regulations and procedures of YMC 15.27.400 through 15.27.436.

A. Development authorizations shall be processed in accordance with notice procedures in YMC Title 16 and with specific requirements provided in YMC 15.27.316 through 15.27.320, including but not limited to:

1. Submittals;
2. Completeness review;
3. Notices;
4. Hearings;
5. Decisions; and
6. Appeals.

B. Development authorizations shall be reviewed in conformance with the applicable development standards of YMC 15.27.321 and with Parts Five through Eight.

C. Decisions on a development authorization shall be consistent with YMC 15.27.311 and 15.27.312, and with any specific decision criteria provided under the section for each relevant permit type, as provided in YMC 15.27.316 through 15.27.321. (Ord. 2008-46 § 1 (part), 2008).

15.27.311 Authorization decisions—Basis for action.

The action on any development authorization under this chapter shall 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 15.27.400 through 15.27.436;
- F. Adequacy of the information provided by the applicant or available to the department;
- G. Based upon the project evaluation, the administrative official shall take one of the following actions:
 1. Grant the development authorization;
 2. Grant the development authorization with conditions, as provided in YMC 15.27.312, to mitigate impacts to the critical area feature(s); or
 3. Deny the development authorization;
- H. The decision by the administrative official or designee shall include written findings and conclusions. (Ord. 2008-46 § 1 (part), 2008).

15.27.312 Conditional approval of development authorization.

In granting any development authorization, the administrative official or designee may impose conditions to:

- A. Accomplish the purpose and intent of this chapter;
- B. Eliminate or mitigate any identified negative impacts of the project; and
- C. Protect critical areas from damaging and incompatible development. (Ord. 2008-46 § 1 (part), 2008).

15.27.313 Fees and charges.

The Yakima city council shall establish the schedule of fees and charges listed in YMC Chapter 15.26 (City of Yakima Fee Schedule), for development authorizations, variances, appeals and other matters pertaining to this chapter. (Ord. 2008-46 § 1 (part), 2008).

Article V. Critical Areas Reports

15.27.314 Critical areas report requirements.

- A. The administrative official or designee may require a critical areas report, paid for by the applicant, when it is determined necessary.
- B. A qualified professional shall prepare the report consistent with best available science.
 1. 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.
- C. The critical area report shall:
 1. Demonstrate the proposal is consistent with the purposes and standards of this chapter;
 2. Describe all potential risks to critical areas, and assess impacts on the critical area from the activities and uses proposed; and

3. Identify mitigation and protective measures.
- D. The critical areas report shall include information addressing the supplemental report requirements (see YMC 15.27.315).
- E. 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.
- F. Critical areas reports shall be valid for a period of five 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.
- G. 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.
- H. 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.
- I. 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.
- J. At a minimum, a critical areas report shall include the following information:
1. A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and buffers;
 2. 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;
 3. An analysis of potential adverse impacts and how they will be mitigated or avoided. Geologically 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;
 4. 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, other public and private properties, and both associated and unassociated nearby facilities and uses potentially affected;
 5. The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
 6. Additional reasonable information requested by the administrative official or designee.
- K. 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.
- L. The administrative official or designee may limit the geographic area of the critical area report as appropriate.
- M. Compensatory Mitigation Plans. When compensatory mitigation, as described in YMC 15.27.307, is proposed for wetland areas or stream channels, the applicant shall submit a mitigation plan as part of the critical area report, which includes:

1. A written report identifying environmental goals and objectives of the proposed compensation including a description of:
 - a. The anticipated impacts to the critical areas;
 - b. The mitigating actions proposed;
 - c. The purpose of the compensation measures, including site selection criteria;
 - d. The compensation goals and objectives;
 - e. The desired resource functions;
 - f. Construction activities' start and completion dates; and
 - g. Analysis of anticipated success of the compensation project;
2. A review of the best available science supporting the proposed mitigation;
3. A description of the report and the author's experience to date in restoring or creating the type of critical area report proposed;
4. 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;
5. Detailed Construction Documents. The mitigation documents shall include written specifications and plans describing the mitigation proposed, such as:
 - a. The proposed construction sequence, timing, and duration;
 - b. Grading and excavation details;
 - c. Erosion and sediment control features;
 - d. A planting plan specifying plant species, quantities, locations, sizes, spacing, and density;
 - e. Measures to protect and maintain plants until established; and
 - f. Documents should include scale drawings showing necessary information to convey both existing and proposed topographic data, slope, elevations, plants and project limits;
6. Monitoring Program. The mitigation plan shall include:
 - a. A program for monitoring both construction of the compensatory project and its completion and survivability;
 - b. A plan which details how the monitoring data will be evaluated to determine if the performance standards are being met;
 - c. Reports as needed to document milestones, successes, problems, and contingency actions of the compensation project; and
 - d. Monitoring for a period necessary to establish that performance standards have been met, but not for a period less than five years;
7. 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;

8. Financial Guarantees. A financial guarantee ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with YMC 15.27.321(A).

N. Innovative Mitigation.

1. Advanced mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section. One or more applicants or an organization with demonstrated capability may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

- a. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
- b. The applicant demonstrates the organizational and fiscal capability to act cooperatively;
- c. The applicant demonstrates that long-term management of the habitat area will be provided;
- d. There is a clear potential for success of the proposed mitigation at the identified site;
- e. There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;
- f. 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;
- g. The plan is consistent with the general purpose and intent of this section;
- h. The plan shall contain relevant management strategies which are within the scope of this section; and
- i. 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.

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

3. Projects that propose compensatory wetland mitigation shall also use the standards in YMC 15.27.604. For those situations where a mitigation bank may provide an opportunity for mitigation, the requirements in YMC 15.27.605 shall apply. (Ord. 2008-46 § 1 (part), 2008).

15.27.315 Supplemental report requirements for specific critical areas.

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

1. A habitat and native vegetation conservation strategy that addresses methods to protect the functional properties listed in YMC 15.27.504; and
2. 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.

B. Wetlands. When a critical areas report is required for wetlands, it shall include the following:

1. 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 No. 96-94) as required by RCW 36.70A.175 and the Washington State Wetland Rating System for Eastern Washington;

2. All delineated wetlands and required buffers within two hundred 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;
 3. An analysis of the wetlands including the following site-related information:
 - a. A statement specifying the accuracy of the report and all assumptions made and relied upon;
 - b. Documentation of fieldwork performed on the site, including field data sheets for delineations, wetland rating forms, baseline hydrologic data, etc.;
 - c. A description of the methodologies used to conduct the wetland delineations or impact analyses, including references;
 - d. Wetland category, including vegetative, faunal, and hydrologic characteristics; and
 4. For projects that will affect the wetland or buffer, provide the following:
 - a. 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 15.27.504 and 15.27.603(A); and
 - b. Mitigation sequencing, pursuant to YMC 15.27.307, to avoid, minimize, and mitigate impacts shall result in “no net loss” of acreage or functional values of wetlands and shall follow the guidance provided in YMC 15.27.604.
- C. Geologically Hazardous Areas. When a critical areas report is required for a geologically hazardous area, it shall include the following:
1. A description of the site features, including surface and subsurface geology;
 2. 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;
 3. A description of the vulnerability of the site to seismic and other geologic processes and hazards; and
 4. A description of any potential hazards that could be created or exacerbated as a result of site development;
 5. For developments in or affecting landslide hazard areas the report shall also include:
 - a. 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 YMC Title 11 (Building Code);
 - b. 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
 - c. 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.
- D. 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. (Ord. 2008-46 § 1 (part), 2008).

Article VI. Permit Review Criteria

15.27.316 Standard development permit.

A. Classification Criteria. Standard development permits include any development not subject to RCW Chapter 90.58 (Shoreline Management Act).

B. Process. Standard development permits shall be processed as a Type (1) review if exempt, as a Type (2) review for all Class (2) uses and non-exempt activities, and as a Type (3) review for all Class (3) uses or applications that are of a significant size or scope as determined by the administrative official. Examples of such projects include those that typically require environmental review (SEPA), filling or excavating a stream channel or wetland, 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. (Ord. 2009-42 § 2, 2009; Ord. 2008-46 § 1 (part), 2008).

15.27.317 Adjustment.

A. Classification Criteria. For projects not required to be processed under RCW Chapter 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 Tables 27.5-1 and 27.5-2 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) of this section. 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 of this section 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. (Ord. 2008-46 § 1 (part), 2008).

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 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. (Ord. 2008-46 § 1 (part), 2008).

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 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.320 Nonconforming uses and facilities.

Nonconforming uses and facilities are classified as either conforming uses with nonconforming structures or areas, or as nonconforming uses, both of which have different review processes and decision criteria, as provided for in YMC Chapter 15.19. (Ord. 2008-46 § 1 (part), 2008).

15.27.321 General critical areas protective measures.

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

A. Financial Guarantees. Financial guarantees may be required to ensure mitigation, maintenance, and monitoring.

1. 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.
2. If a development proposal is subject to compensatory mitigation, the applicant must post a financial guarantee to ensure mitigation is fully functional.
3. All financial guarantees shall be in the amount of one hundred twenty-five percent 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.
4. 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.

5. 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 years after completion of the work to ensure that the required mitigation has been fully implemented and demonstrated to function.
6. If public funds have previously been committed for mitigation, maintenance, monitoring, or restoration, a financial guarantee will not be required.
7. Failure to satisfy critical area requirements shall constitute a default, and the administrative official or his or her designee may demand payment of any financial guarantee.
8. 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.
9. 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.

B. Subdivision Standards. The following standards apply to all permits or reviews under the subdivision ordinance (YMC Title 14) that contain critical areas:

1. All subdivisions that contain critical areas shall be eligible for density bonuses or other development incentives, as provided in the subdivision ordinance (YMC Title 14) and zoning ordinance (this title);
2. Critical areas shall be actively protected through the following:
 - a. Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible;
 - b. When geologically hazardous areas (excluding erosion, oversteepened slopes of intermediate risk, stream undercutting, and earthquake hazards), FEMA floodways, channel migration zones (CMZs), streams, wetlands and/or vegetative buffers fall within the boundary of a subdivision:
 - i. 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;
 - ii. For those new lots that do contain said critical areas, usable building envelopes (five thousand square feet or more for residential uses) shall be provided on the plat that lies outside said critical areas.
 - c. New lots partially within the floodplain shall provide a usable building envelope (five thousand square feet or more for residential uses) outside the floodplain.
 - d. New lots entirely within the floodplain shall be at least one acre in area;
 - e. For new lots containing streams, wetlands, and/or vegetative buffers, outdoor use envelopes shall be provided on the plat that lie outside said critical areas;
 - f. Degraded vegetative buffers shall be restored, or provided with protection measures that will allow them to recover;
 - g. Floodplains and critical areas shall be depicted on preliminary subdivision plats and relevant information about them disclosed on the final plat.
 - h. Lots or parcels that lie entirely within geologically hazardous areas (excluding erosion, oversteepened slopes of intermediate risk, stream undercutting, and earthquake hazards), FEMA

floodways, channel migration zones (CMZs), streams, wetlands, and/or vegetative buffers may not be further divided. (Ord. 2008-46 § 1 (part), 2008).

Part Four. Flood Hazard Areas

Article I. Flood Hazard Areas—General Provisions

15.27.400 Flood hazard areas established.

The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in the “Flood Insurance Study for Yakima County and Incorporated Areas” dated November 18, 2009, with accompanying Flood Insurance Rate Maps (FIRMs), and any amendments thereto made by the Federal Emergency Management Agency are herein adopted by reference and declared to be part of Part Four of the city of Yakima’s Critical Areas Ordinance. The Flood Insurance Study and maps are on file with the city of Yakima, Washington. (Ord. 2009-42 § 3, 2009; Ord. 2008-46 § 1 (part), 2008).

15.27.401 Principles.

Part Four 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 principles, the intent of Part Four is:

- A. To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
- B. To meet the minimum requirements of the National Flood Insurance Program; and
- C. To implement state and federal flood protection programs. (Ord. 2008-46 § 1 (part), 2008).

15.27.402 Applicability.

The guidelines and regulations set forth herein and in YMC Title 11 and related building codes shall apply to all special flood hazard areas.

- A. The provisions of Part Four of this chapter shall apply to any development proposed in a special flood hazard area;
- B. Flood hazard permits shall be approved by the city of Yakima. Approval shall only be granted in accordance with Part Four of this chapter and other applicable local, state, and federal regulations;
- C. Topographic, engineering and construction information necessary to evaluate the proposed project shall be submitted to the department for approval; and
- D. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.403 Documented exemptions.

The following uses and activities are exempt from the provisions of Part Four of this chapter:

- A. The alteration or substantial improvement of any structure listed on the National Register of Historic Places or state inventory of historic places;
- B. The installation and maintenance of aboveground utility transmission lines and poles; and
- C. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.404 Interpretations.

A. In the interpretation and application of Part Four 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 Yakima Municipal Code Title 11, Buildings; Title 12, Development Standards; Title 14, Subdivisions; and this title, Yakima Urban Area Zoning Ordinance. YMC 15.27.400 through 15.27.436 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.

B. In an interpretation as to an exact location of the boundaries of the special flood hazard areas (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of the National Flood Insurance Program Section 60.6 (See 44 CFR 59, et seq., and IBC Section 104.1). (Ord. 2008-46 § 1 (part), 2008).

15.27.405 Compliance.

No structure or land shall hereafter be used, constructed, located, extended, converted, or altered without full compliance with the terms of Part Four of this chapter and other applicable regulations. (Ord. 2008-46 § 1 (part), 2008).

15.27.406 Warning and disclaimer of liability.

The degree of flood protection required by Part Four 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. Part Four 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. (Ord. 2008-46 § 1 (part), 2008).

Article II. Flood Hazard Protection Standards

15.27.407 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:

A. **Anchoring and Construction Techniques.** 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 shall meet the specifications set forth below for structures located within one hundred feet of a floodway or the ordinary high water mark if no floodway has been established.

B. **Construction Materials and Methods.**

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. 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 the conditions of flooding.

C. All new construction and any improvements or additions to existing floodproofed structures that would extend beyond the existing floodproofing located within one hundred feet of the floodway or one hundred feet of the ordinary high water mark if no floodway has been established shall be elevated to a height equal to or greater than the base flood, using zero-rise methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that non-zero-rise construction methods will not impede the movement of floodwater or displace a

significant volume of water. The size and spacing of any support devices used to achieve elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified above in subsections A and B 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.

E. 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.

F. 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 five acres or fifty lots, a step-back water analysis shall be required to generate the base flood elevation data.

G. 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. (Ord. 2009-42 § 4, 2009; Ord. 2008-46 § 1 (part), 2008).

15.27.408 Specific standards.

In all special flood hazard areas where base elevation data has been provided as set forth in YMC 15.27.400, the following regulations shall apply, in addition to the general standards of YMC 15.27.407:

A. Residential Construction. (See IRC Section 323.2.)

1. 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.
2. 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:
 - a. 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;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
3. Residential construction within one hundred feet of a floodway, or the ordinary high water mark if no floodway has been established, shall also meet the requirements of YMC 15.27.407(C).

B. Nonresidential Construction (44 CFR 60.3(C)(3) and (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:

1. 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;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. 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
4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section.

C. **Manufactured Homes.** Manufactured homes shall be elevated in accordance with IBC Section 501.1, Appendix "G."

D. **Recreational Vehicles.** Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than one hundred eighty consecutive days;
2. 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
3. Meet the anchoring requirements of subsection C of this section. (Ord. 2008-46 § 1 (part), 2008).

Article III. Floodway Fringe Uses

15.27.409 Permitted uses.

The following uses are permitted in the floodway fringe areas:

A. **Permitted Uses.** Any use permitted in the zoning district in accordance with this title, unless prohibited by YMC 15.27.410.

B. **Utility Transmission Lines.** Utility transmission lines shall be permitted when consistent with this title and where not otherwise inconsistent with Part Four of this chapter; 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:

1. 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.
2. Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of YMC 15.27.411(C)(3).
3. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features.
4. Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.

5. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.410 Prohibited uses.

New manufactured home parks and the expansion of manufactured home/parks are prohibited in floodway fringe areas. (Ord. 2008-46 § 1 (part), 2008).

Article IV. Floodway Uses

15.27.411 Permitted uses.

Permitted uses include any use permitted in the zoning district in accordance with this title; provided, that said use is in compliance with the flood hazard protection standards of YMC 15.27.407 and 15.27.408 and other applicable provisions of this chapter and will have a negligible effect upon the floodway in accordance with the floodway encroachment provisions of YMC 15.27.412(B). Permitted uses include:

A. All encroachments, including fill, new construction and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;

B. 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 this title;

C. 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:

1. All utility transmission lines shall cross floodways by the most direct route feasible, as opposed to paralleling floodways;
2. 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;
3. Buried utility transmission lines transporting hazardous and nonhazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by the city of Yakima, which shall assume the conditions of a one-hundred-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the city of Yakima shoreline master program regulations;
4. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features; and

5. Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the one-hundred-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) of this section;

D. Construction or reconstruction of residential structures only as authorized in YMC 15.27.412(E);

E. 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);

F. 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 the city's shoreline master program. In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing and otherwise comply with subsection C of this section;

G. Dikes; provided, the applicant can provide evidence that:

1. 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;
2. Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired;
3. 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

H. Roads and bridges, subject to the regulations of subsections (C)(1) through (5) of this section. (Ord. 2008-46 § 1 (part), 2008).

15.27.412 Prohibited uses.

The following uses/developments are prohibited in the floodway:

A. 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 and 15.04.140);

B. Any encroachments, including fill, new construction and other development, shall require certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;

C. 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;

- D. Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified one-hundred-year flood event;
- E. Construction or reconstruction of residential structures within designated floodways, except for:
1. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and
 2. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the assessed value of the structure either:
 - a. Before the repair, reconstruction or improvement is started; or
 - b. If the structure has been damaged and is being restored, before the damage occurred.
 3. Work done on structures to correct existing violations of existing health, sanitary or safety codes, or to structures identified as historic places, shall not be included in the fifty percent.
 4. If subsection B of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Part Four.
- F. The construction or storage of any object subject to flotation or movement during flood level periods;
- G. The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway, are specifically prohibited:
1. The filling of wetlands, except as authorized under Part Five, Fish and Wildlife Habitat and the Stream Corridor, and Part Six, Wetlands;
 2. Solid waste landfills, dumps, junkyards, outdoor storage of vehicles, and/or materials; and
 3. 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 15.27.509).
- H. The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited. (Ord. 2008-46 § 1 (part), 2008).

15.27.413 Nonconforming uses and facilities.

- A. Within the special flood hazard areas established by this chapter 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 Part Four of this chapter or future amendment.
- B. It is the intent of YMC Chapter 15.19 to permit these lawful preexisting 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. (Ord. 2008-46 § 1 (part), 2008).

Article V. Flood Hazard Protection Administration

15.27.414 Administration.

The administrative official is vested with the duty of administering the rules and regulations relating to flood hazard protection in accordance with the provisions of Part Four and may prepare and require the use of such forms as are essential to such administration. (Ord. 2009-42 § 5, 2009; Ord. 2008-46 § 1 (part), 2008).

15.27.415 Authority.

Upon application, the administrative official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Part Four 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. (Ord. 2009-42 § 6, 2009: Ord. 2008-46 § 1 (part), 2008).

15.27.416 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 Part Three of this chapter. (Ord. 2008-46 § 1 (part), 2008).

15.27.417 Permit—Application.

All persons applying for a flood hazard permit shall submit a written application, accompanied by an application fee as specified in YMC 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 15.11.05040:

- A. Name, address and telephone number of applicant and property owner if different;
- B. Project description and taxation parcel identification number;
- C. Name of the stream or body of water associated with the floodplain in which the development is proposed; and
- D. Site plan map drawn to an engineering scale showing:
 1. Actual dimensions and shape of the parcel to be built on;
 2. Sizes and location of existing structures on the parcel;
 3. Location and dimensions of the proposed development, structure or alteration;
 4. Location, volume and type of any proposed fill; and
 5. The application shall include other information as may be required by the administrative official to clarify the application for the enforcement of Part Four of this chapter. (Ord. 2008-46 § 1 (part), 2008).

15.27.418 Permit—Review.

Flood hazard permit applications will be reviewed to determine:

- A. The elevation and floodproofing requirements of Part Four of this chapter;
- B. The proposed development's location in relation to the floodway and any encroachments, YMC 15.27.412(B);
- C. Alteration or relocation of a watercourse;
- D. That the proposed development is a permitted use under Part Four of this chapter and YMC Title 15; and
- E. That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required. (Ord. 2009-42 § 7, 2009: Ord. 2008-46 § 1 (part), 2008).

15.27.419 Use of available data.

When base flood elevation data has not been provided in accordance with YMC 15.27.400, 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 15.27.408, 15.27.412, and Chapter 15.25. (Ord. 2008-46 § 1 (part), 2008).

15.27.420 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 Part Four and punishable as provided by YMC Chapter 15.25. (Ord. 2008-46 § 1 (part), 2008).

15.27.421 Permit—Expiration and cancellation.

If the work described in any permit has not begun within one hundred eighty days from the date of issuance thereof, the permit shall expire and be canceled by the administrative official. (Ord. 2009-42 § 8, 2009: Ord. 2008-46 § 1 (part), 2008).

15.27.422 Performance bonds.

A. 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 Part Four of this chapter. Bonds, if required, shall be furnished by the property owner or other person or agent in control of the property.

B. In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the city in an amount equal to that which would be required in the surety bond. (Ord. 2008-46 § 1 (part), 2008).

15.27.423 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 Part Three. (Ord. 2008-46 § 1 (part), 2008).

15.27.424 Coordination.

Upon application, the administrative official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in Part Four 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. (Ord. 2009-42 § 9, 2009: Ord. 2008-46 § 1 (part), 2008).

Article VI. Elevation and Floodproofing Certification

15.27.425 Applicability.

Certification for elevation and 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.426 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. (Ord. 2009-42 § 10, 2009: Ord. 2008-46 § 1 (part), 2008).

15.27.427 Information to be obtained and maintained.

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

A. 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;

B. The actual elevation (in relation to mean sea level) of floodproofing of all new or substantially improved nonresidential floodproofed structures; and

C. Where a base flood elevation has not been established according to YMC 15.27.400, 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.428 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 15.27.427 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. (Ord. 2008-46 § 1 (part), 2008).

Article VII. Flood Hazard Variances

15.27.429 Procedure.

Any person seeking a variance from the requirements of Part Four authorized under YMC 15.27.430 shall make such request in writing to the planning department on the forms they supply. 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 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 days from the date of mailing, during which written comments may be received and considered. The notice shall also state that copies of the administrative official's final decision will be mailed upon request. The administrative official may also solicit comments from any other person or public agency he or she feels may be affected by the proposal. (Ord. 2008-46 § 1 (part), 2008).

15.27.430 Variance limitations.

A. Variances shall be limited solely to the consideration of:

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

B. Variances shall not be considered for any procedural or informational requirements or use prohibitions of Part Four of this chapter. (Ord. 2008-46 § 1 (part), 2008).

15.27.431 Conditions for authorization.

Before a variance to the provisions of Part Four may be authorized, it shall be shown that:

- A. 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;
- B. 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;
- C. Such a variance is the minimum necessary, considering the flood hazard, to afford relief;
- D. Failure to grant the variance would result in exceptional hardship to the applicant; and
- E. The granting of such a variance will not result in:
 1. Increased flood heights;
 2. Additional threats to public safety;
 3. Creation of nuisances;
 4. Extraordinary public expense; or
 5. Conflicts with other existing local laws or ordinances. (Ord. 2008-46 § 1 (part), 2008).

15.27.432 Administrative official's decision.

After considering any comments received from other agencies, jurisdictions or adjoining property owners, the administrative official shall approve, approve with conditions, or deny the variance request. The administrative official shall prepare written findings and conclusions stating the specific reasons upon which the decision is based. (Ord. 2008-46 § 1 (part), 2008).

15.27.433 Notification and final decision.

The decision shall be issued within seven days from the end of the comment period. Further, the administrative official shall mail the findings and decision to the applicant and to other parties of record requesting a copy. (Ord. 2008-46 § 1 (part), 2008).

15.27.434 Power to refer decisions.

In exercising the duties and powers of implementing and administering Part Four of this chapter, the administrative official may refer any variance application to the hearing examiner for action at a public hearing. (Ord. 2008-46 § 1 (part), 2008).

15.27.435 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 Chapter 15.16. (Ord. 2008-46 § 1 (part), 2008).

15.27.436 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 Flood Insurance Program, are hereby adopted by reference. (Ord. 2008-46 § 1 (part), 2008).

Part Five. Fish and Wildlife Habitat and the Stream Corridor System

Article I. Introduction

15.27.500 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:

- A. Meet the requirements of the Growth Management Act (RCW 36.70A.172) regarding best available science;
- B. Follow the requirements pursuant to flood-resistant construction in the adopted building code;
- C. Provide a zero net loss of natural wetland functions and values;
- D. Provide possible alternatives for necessary development, construction, and uses within a designated stream corridor and other hydrologically related critical areas;
- E. Prevent decline in the quantity and quality of surface and subsurface waters;
- F. Conserve, restore, and protect fish and wildlife habitats, vegetation, and ecological relationships;
- G. Protect sensitive areas of the stream corridor from the potential negative effects of development;
- H. Through voluntary agreements or government incentives, provide protection of natural wetland functions and values; and
- I. Recognize wildlife area conservation habitats within their natural geographic location through coordinated land use planning. (Ord. 2008-46 § 1 (part), 2008).

15.27.501 Protection approach.

A. 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:

- 1. Protection of habitat for aquatic species; and
- 2. Protection of habitat for species located near the water.

B. The city of Yakima's approach to protecting threatened, endangered, and sensitive species habitat is by using the protection approach sections of this chapter. (Ord. 2008-46 § 1 (part), 2008).

Article II. Designation and Mapping

15.27.502 Hydrologically related critical area features.

Stream corridors and other hydrologically related critical areas include one or more of the following features:

- A. 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;
- B. Perennial and intermittent streams, excluding ephemeral streams, including the stream main channel and all secondary channels within the ordinary high water mark;
- C. Naturally occurring ponds under twenty acres and associated submerged aquatic beds; and manmade lakes and ponds created within a stream channel;
- D. All wetlands as defined in YMC 15.27.200;
- E. Any flood-prone area indicated by U.S. Soil Conservation Service soil survey data; and
- F. A buffer area for a stream channel, lake, or pond or from the edge of a wetland. (Ord. 2008-46 § 1 (part), 2008).

15.27.503 Habitat and habitats of local importance.

A. 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.

B. 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.

1. The decision for changes to species and habitats of local importance shall consider:
 - a. Concern due to population status;
 - b. Sensitivity to habitat manipulation;
 - c. Importance to the local community; and
 - d. Criteria used to identify state priority species, which include:
 - i. 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;
 - ii. 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;
 - iii. Species of recreational, commercial, and/or tribal importance that are vulnerable; and
 - iv. 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.

2. Nominated habitats and habitats for species of local importance shall consider the following and must include maps to illustrate the proposal:
 - a. A seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain or reproduce over the long term;
 - b. Areas of high relative density or species richness, breeding habitat, winter range, and movement corridors;
 - c. Habitat with limited availability or high vulnerability to alteration; and
 - d. Whether these habitats are already identified and protected under the provisions of this or other local ordinances or state or federal law.
3. Habitat management recommendations shall be included for use in the administration of this section.

C. Development Standards. Projects located within habitats of local importance, as designated in subsection A of this section, shall meet the standards below, rather than the development standards in YMC 15.27.508 through 15.27.521, 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.504 Functional properties.

A. Streams, lakes, ponds and wetlands require a sufficient riparian area to support one or more of the following functional properties:

1. Stream bank and shore stabilization;
2. Providing a sufficient shade canopy to maintain water temperatures that support fish and their habitat;
3. Moderating the impact of stormwater runoff;
4. Filtering solids, nutrients and harmful substances;
5. Surface erosion prevention;
6. Providing and maintaining migratory corridors for wildlife;
7. Supporting a diversity of wildlife habitats; or
8. Allowing for the natural occurrence of woody debris and organic matter to collect in the aquatic environment.

B. Stream channels assist in one or more of the following functional properties:

1. Groundwater recharge and/or discharge;
2. Water transport;
3. Sediment transport and/or storage;
4. Biochemical functions;
5. Channel migration and the protection of habitats; or
6. Food and habitat.

C. Lakes, ponds and wetlands generally provide similar functions and generally provide one or more of the following functional properties:

1. Biogeochemical functions that improve water quality;
2. Hydrologic functions maintaining the water regime in a watershed (flood flow attenuation, decreasing erosion, and groundwater recharge); or
3. Food and habitat.

D. Floodplains generally provide one or more of the following functional properties:

1. Floodwater storage;
2. Floodwater passage and the movement of high-velocity waters;
3. Sediment storage and recruitment;
4. Food and habitat;
5. Nutrient sink and/or source; or
6. Groundwater recharge and discharge.

E. 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:

1. Reproduction and/or nesting;
2. Resting and refuge;
3. Foraging for food; or
4. Dispersal and migration.

F. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.505 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 15.27.502 as follows:

A. 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;

B. 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 15.27.504 and are considered “streams, lakes and/or ponds of local importance,” as listed in Appendix B of this title;

C. Type 3 streams include all perennial streams within the city of Yakima not classified as Type 1 or 2. (See YMC 15.27.200, “perennial stream”);

D. Type 4 streams are all intermittent streams within the city of Yakima not classified as Type 1, 2 or 3. (See YMC 15.27.200, “intermittent stream”);

E. 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 15.27.200, “ephemeral stream”); and

F. Lakes and Ponds.

1. 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.
2. 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.
3. Lakes or ponds not designated as a shoreline that are connected to a Type 1 stream shall be Type 1 ponds. (Ord. 2008-46 § 1 (part), 2008).

15.27.506 Wetland rating system.

A. Wetlands within the city of Yakima are defined in YMC 15.27.200 and are shown on the data maps referenced in YMC 15.27.507. Most, but not all, of the wetlands within the city of Yakima occur near streams. The functional properties for wetlands are identified in YMC 15.27.504 and 15.27.603.

B. For regulatory purposes, wetlands are classified into four categories according to the wetland rating system found in YMC 15.27.603(B). (Ord. 2008-46 § 1 (part), 2008).

15.27.507 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 nonregulatory in nature as described below:

A. 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).

B. 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:

1. Wetlands;
2. Streams;
3. Channel migration zone; and
4. 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.

C. Other nonregulatory information sources include maps or other data sources, but are not limited to:

1. Comprehensive flood hazard management plans;
2. Soil survey of the city of Yakima;
3. Surface geologic maps;
4. Historic and current aerial photo series; and
5. Geohydraulic studies—geologic cross-sections showing aquifers and confining units. (Ord. 2008-46 § 1 (part), 2008).

Article III. General Development Standards

15.27.508 Prohibited uses.

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

- A. Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;
- B. The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;
- C. The draining or filling of a wetland, lake or pond, except as provided for in YMC 15.27.519;
- D. The removal and transport of material for fill outside of the stream corridor;
- E. 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;
- F. Solid waste disposal sites;
- G. Automobile wrecking yards;
- H. Fill for the sole purpose of increasing land area within the stream corridor;
- I. Uses located within the floodway fringe that are listed in YMC 15.27.410; and
- J. Uses located within the floodway that are listed in YMC 15.27.412. (Ord. 2008-46 § 1 (part), 2008).

15.27.509 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:

- A. 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;
- B. 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;
- C. Nesting areas and other sensitive habitat identified within a stream corridor shall be disturbed to the minimum extent possible;
- D. 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;
- E. Developments that obtain a stormwater permit approved by a local, state or federal agency and transportation projects using the Eastern Washington stormwater manual are exempt from:
 - 1. 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;
 - 2. 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;

3. 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;
 4. The discharge point for controlled stormwater runoff shall be designed and constructed to avoid erosion; and
 5. Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established;
- F. 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;
- G. 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;
- H. 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;
- I. 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;
- J. 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;
- K. 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;
- L. 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;
- M. Maintenance shall be provided for the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- N. Development, construction, or uses within the hydrologically related critical area shall be mitigated using mitigation sequencing as outlined in YMC 15.27.307;
- O. Development shall not obstruct, cut off, or isolate stream corridor features;
- P. Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership;
- Q. 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;
- R. Projects located within the floodway must meet the requirements of YMC 15.27.411; and
- S. 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 15.27.521. (Ord. 2008-46 § 1 (part), 2008).

Article IV. Water Dependency Development Standards and Buffer Requirements

15.27.510 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 15.27.511 through 15.27.513:

- A. Water-oriented uses are one of the following two categories of 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.
- B. Non-water-oriented uses include any use not qualifying as uses in subsection A of this section. (Ord. 2008-46 § 1 (part), 2008).

15.27.511 Water-dependent uses.

The following provisions shall apply to water-dependent uses:

- A. Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore.
- B. 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 15.27.514.
- C. Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water. (Ord. 2008-46 § 1 (part), 2008).

15.27.512 Water-related uses.

The following provisions shall apply to water-related uses:

- A. 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.
- B. Structures and use areas shall not be located within the vegetative buffer specified in YMC 15.27.514 except where existing development or the requirements associated with the use make such a location unavoidable. (Ord. 2008-46 § 1 (part), 2008).

15.27.513 Non-water-oriented uses.

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

- A. Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in YMC 15.27.514.
- B. Construction abutting the vegetative buffer specified in YMC 15.27.514 shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer. (Ord. 2008-46 § 1 (part), 2008).

15.27.514 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, ponds, and wetlands are listed in Tables 27.5-1 and 27.5-2.

- A. 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.
- B. Type 1 streams, lakes, and ponds are protected by the shoreline master program and are not part of this title.
- C. 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).
- D. 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.
 - 1. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.
 - 2. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

Table 27.5-1

Stream Type	Buffer Width—standard/(minimum adjustment)
Type 1 shoreline streams, lakes, and ponds	100'
Type 2 streams, lakes, and ponds	75'/(25')
Type 3 streams (perennial), lakes, and ponds	50'/(25')
Type 4 streams (intermittent), lakes, and ponds	25'/(15')
Type 5 streams (ephemeral)	No buffer standards. Type 5 streams are not regulated 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 27.5-2

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'

(Ord. 2008-46 § 1 (part), 2008).

Article V. Land Modification Development Standards

15.27.515 Roads, railroads, and parking.

The following provisions shall apply to the location and construction of roads, railroads, and parking within a designated hydrologically related critical area:

- A. Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor;
 - 1. Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor;
 - 2. Roadways that must run parallel to streams or wetlands shall be along routes having the greatest possible distance from stream or wetland and the least impact;
 - 3. Roadways within the stream corridor shall not hydrologically obstruct, cut off or isolate stream corridor features, unless it is clearly unavoidable;
- B. Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade or shall be transported outside the stream corridor;
- C. Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood-prone;
- D. Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor;
- E. Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of ordinary high water, sediment, and woody debris;
- F. The preservation of natural stream channels and drainage ways shall be preferred over the use of culverts. Where culverts are the preferred method, large, natural bottom culverts, multiplate pipes, and bottomless arches are preferred;
- G. The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways and shall be sized to accommodate the volume, flow and velocity of ordinary high water and shall terminate on stable, erosion-resistant materials;
- H. Where fish are present, culverts shall be designed and constructed to specifications provided through the Department of Fish and Wildlife;
- I. At least one end of a wood stringer bridge shall be anchored to prevent the bridge from being washed away during a high water event;
- J. Roads must be designed and constructed using established flood-resistant design and construction methods when the road is possibly subject to flood water damage; and
- K. Roads and bridges within floodways must meet the requirements of YMC 15.27.411(C) and (G), unless an engineer can demonstrate another appropriate method. (Ord. 2008-46 § 1 (part), 2008).

15.27.516 Utility transmission lines and facilities.

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

- A. Utility transmission lines shall be permitted within the stream corridor only where it is necessary to cross the corridor or where development, topography, and other conditions preclude locations outside the stream corridor.

- B. Utility transmission lines across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
- C. The construction of utility transmission lines within a stream corridor shall be designed and located to provide a minimum disruption to the functional properties.
- D. Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy replacement or repair with minimal disturbance to the stream corridor.
- E. Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour or one-third of the bankfull depth of the waterway, whichever is greater, and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis.
- F. Wherever possible, new aboveground installations shall use existing bridges or pole facilities.
- G. Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is reasonably practical.
- H. Transmission support structures shall be located clear of high flood velocities and located in areas of minimum flood depth, which require the least amount of floodproofing.
- I. Underground utility transmission lines shall be constructed so they do not alter, intercept or dewater groundwater patterns that support streams, wetlands and hyporheic flow.
- J. All new and replacement water supply systems and wastewater systems within a special flood hazard area must meet the requirements of YMC 15.27.407(D) (regarding infiltration or discharge into or out of the system).
- K. Utility transmission lines within the floodway fringe shall meet the standards of YMC 15.27.409(B).
- L. Utility transmission lines within the floodway shall meet the standards of YMC 15.27.411(C). (Ord. 2008-46 § 1 (part), 2008).

15.27.517 Shore stabilization.

The following provisions shall apply to shore stabilization projects:

- A. Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly threatens existing property, structures, 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 to the minimum protective measures necessary 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 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 YMC 15.27.519;
- 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 of the shore's other segments;
- F. Alternative Preferences. Vegetation, berms, bioengineering techniques, and other nonstructural alternatives which preserve the natural character of the shore shall be preferred over riprap, concrete revetments, bulkheads, breakwaters, and other structural stabilization, while riprap, rock or other natural materials shall be preferred over concrete revetments, bulkheads, breakwaters and other structural stabilization;

- G. Applications to construct or enlarge dikes or levees shall meet the requirements of YMC 15.27.411(G);
- 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; and
- J. All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance and repairs for the life of the project. (Ord. 2008-46 § 1 (part), 2008).

15.27.518 Dredging and excavation.

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

- A. Dredging in surface waters shall be allowed only where necessary:
 - 1. Because of existing navigation needs;
 - 2. Habitat improvement;
 - 3. Maintenance; and
 - 4. Construction of water-dependent uses.
- B. Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use.
- C. Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging.
- D. Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials.
- E. Entries across shore and wetland edges to accomplish dredging or excavation shall be confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage.
- F. Dredging and excavation shall be scheduled at times having the least impact to fish during spawning, nesting, and other identified natural processes.
- G. Dredge spoils are also considered fill, and shall not be deposited within the stream except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions. (Ord. 2008-46 § 1 (part), 2008).

15.27.519 Filling.

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

- A. Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses or an approved reclamation plan under YMC 15.27.521 or approved compensatory mitigation plan under YMC 15.27.604.
- B. Fill for the purpose of increasing elevation may be permitted if it can be accomplished in a manner consistent with this chapter's policies.
- C. Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods.

- D. Fill in floodplains shall meet the requirements of Part Four, Flood Hazard Areas.
- E. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality.
- F. Fill placement shall be scheduled at times having the least impact to fish during spawning, nesting, and other identified natural processes.
- G. Fill and finished surface material shall require low maintenance, provide high resistance to erosion, and prevent or control the migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless the Washington Department of Fish and Wildlife indicates other options are preferred.
- H. Projects that propose fill shall make every effort to acquire fill on site (compensatory storage) where appropriate.
- I. Fill should not obstruct, cut off, or isolate stream corridor features. (Ord. 2008-46 § 1 (part), 2008).

15.27.520 Commercial mining of gravel.

The following provisions shall apply to the commercial mining of gravel within a designated hydrologically related critical area:

- 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 from existing uses.
- B. Wherever feasible, 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 YMC 15.27.411(B).
- D. Except where authorized by the city of Yakima 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 washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.
- E. Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation Standards (WAC Chapter 332-18, RCW Chapter 78.44). (Ord. 2008-46 § 1 (part), 2008).

15.27.521 Reclamation.

The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:

- A. Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation;
- B. Large-scale projects that extend over several months shall be phased to allow reclamation of areas where work or operations have been completed;
- C. Reclamation shall be scheduled to address precipitation, meltwater runoff, the growing season, and other seasonal variables that influence restoration and recovery;
- D. Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas;
- E. 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;
- F. Cut-and-fill slopes shall be stabilized at, or at less than, the normal angle of repose for the materials involved;
- G. For the replacement or enhancement of vegetation within wetlands and required vegetative buffers naturally occurring, native plant species shall be used; and
- H. 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. (Ord. 2008-46 § 1 (part), 2008).

Part Six. Wetlands

15.27.600 Purpose and intent.

The purpose and intent of the provisions protecting wetland critical areas is equivalent to the purpose and intent for YMC 15.27.500. (Ord. 2008-46 § 1 (part), 2008).

15.27.601 Designating and mapping.

A. Wetlands are all areas meeting the definition for wetlands as defined in YMC 15.27.200 and are hereby designated critical areas which are subject to this chapter, except the following:

1. Irrigation systems that create an artificial wetland; and
2. Areas where changes in irrigation practices have caused wetland areas to dry up.

B. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.602 Protection approach.

Wetlands will be protected using the protection approach for hydrologically related critical areas found in YMC 15.27.501. Wetlands and their functions will be protected using the standards found in Part Four. (Ord. 2008-46 § 1 (part), 2008).

15.27.603 Wetland functions and rating.

A. Wetlands are unique landscape features that are the interface between the aquatic and terrestrial environments. Wetlands provide the following functions:

1. Biogeochemical functions, which improve water quality in the watershed (such as nutrient retention and transformation, sediment retention, metals, and toxics retention and transformation).
2. Hydrologic functions, which maintain the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, and groundwater recharge.

3. Food and habitat functions, which includes habitat for invertebrates, amphibians, anadromous fish, resident fish, birds, and mammals.

B. Wetlands shall be rated based on categories that reflect the functions and values of each wetland and shall be based on the criteria provided in the Washington State Wetland Rating System for Eastern Washington, revised August 2004 (Ecology Publication No. 04-06-15) which are summarized below:

1. 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:
 - a. Wetlands scoring seventy points or more (out of one hundred) in the Eastern Washington Wetland Rating System (EWWRS);
 - b. Alkali wetlands;
 - c. Natural heritage wetlands (wetlands identified by Washington Department of Natural Resources Natural Heritage Program scientists); and
 - d. Bogs.
2. Category II wetlands are difficult but not impossible to replace and provide high levels of some functions. Category II wetlands include:
 - a. Wetlands scoring between fifty-one and sixty-nine points (out of one hundred) in the EWWRS;
 - b. Unassociated vernal pools; and
 - c. Forested wetlands.
3. Category III wetlands are often smaller, less diverse, and/or more isolated from other natural resources. Category III wetlands include:
 - a. Wetlands with a moderate level of functions (scoring between thirty and fifty points) in the EWWRS; and
 - b. Associated vernal pools.
4. Category IV wetlands have the lowest levels of functions, scoring less than thirty points in the EWWRS. Category IV wetlands are often heavily disturbed and are wetlands that should be able to be replaced.

C. Wetlands shall be rated as they exist on the day of project application submission. Information regarding the original condition of illegally modified wetlands that can not 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.604 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 no net loss of wetland functions and values, and must be consistent with the mitigation plan requirements of YMC 15.27.314(M). The following documents were developed to assist applicants in meeting the above requirements:

A. 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 No. 04-06-013B).

B. Compensatory mitigation application and ratios for mitigation of wetlands shall be consistent with “Wetlands in Washington State—Volume 2: Guidance for Protecting and Managing Wetlands—Appendix 8-D—Section 8-D3” or as revised (Washington State Department of Ecology. Publication No. 05-06-008). (Ord. 2008-46 § 1 (part), 2008).

15.27.605 Wetland mitigation banks.

A. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

1. The bank is certified under RCW Chapter 90.84 or WAC Chapter 173-700;
2. The administrative official determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts; and
3. The proposed use of credits is consistent with the terms and conditions of the bank’s certification.

B. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank’s certification.

C. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions. (Ord. 2008-46 § 1 (part), 2008).

Part Seven. Geologically Hazardous Areas

15.27.700 Purpose and intent.

A. 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.

B. The purpose of this section is to:

1. Minimize risks to public health and safety and reduce the risk of property damage by regulating development within geologically hazardous areas;
2. Maintain natural geological processes while protecting new and existing development; and
3. Establish review procedures for development proposals in geologically hazardous areas.

C. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.701 Mapping and designation.

A. Geologically hazardous areas are areas that are susceptible to one or more of the following, based on WAC 365-190-080(4)(b) through (h):

1. Erosion hazards;
2. Landslide hazards, which include:
 - a. Oversteepened slopes;
 - b. Alluvial fan/flash flooding;
 - c. Avalanche; and

- d. Stream undercutting;
3. Seismic hazards (referred to below as earthquake hazards); and
4. Volcanic hazards.

B. 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 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."

C. 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 365-190-080(4)(b) through (h):

1. Landslide Hazard Areas (LS). These include places where landslides, debris flows, or slumps have occurred.
 - a. 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.
 - b. Intermediate risk (LS2) is defined as areas where landslides, debris flows, or slumps are older than ten thousand years, but are still capable of movement.
 - c. Low risk areas are defined as areas unlikely to fail. These areas are unlabeled and combined with other low risk categories.
2. Oversteepened Slope Hazard Areas (OS). These include areas with slopes steep enough to create a potential problem.
 - a. High risk areas (OS3) are defined as having a high potential to fail, include slopes greater than forty percent, and consist of areas of rock fall, creep, and places underlain with unstable materials.
 - b. Intermediate risk areas (OS2) are defined as areas less likely to fail but are still potentially hazardous. This category includes slopes between fifteen and forty percent.
 - c. Low risk areas are defined as areas unlikely to fail. These areas are unlabeled and combined with other low risk categories.
3. 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 area may include:
 - a. Alluvial fans;
 - b. Canyons;
 - c. Gullies; and
 - d. Small streams where catastrophic flooding can occur.
4. 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.
5. Stream Undercutting Hazard Areas (SU). These areas are confined to banks near main streams and rivers where undercutting of soft materials may result.
 - a. High risk areas (SU3) include steep banks of soft material adjacent to present stream courses.

- b. Intermediate risk areas (SU2) are banks along the edge of a floodplain but away from the present river course.
 - c. Low risk areas (SU1) are unlabeled and combined with other low risk areas on the maps.
6. 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.
7. 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.
8. 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.
- D. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.702 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.

- A. 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 Eastern Washington Stormwater Manual (WDOE publication number 04-10-076); equivalent manual adopted by the city of Yakima; or any other approved manual deemed appropriate by the administrative official.
- B. Landslide Hazard Areas. Protection measures for landslide hazard areas will be accomplished through the review process of YMC 15.27.703 by implementing the development standards of YMC 15.27.704.
- C. Alluvial Fan/Flash Flooding Hazard Areas. Protection measures for alluvial fan/flash flooding hazard areas will be accomplished through the review process of YMC 15.27.703.
- D. 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.
- E. Avalanche Hazard Areas. This condition is outside the city of Yakima's UGA and, therefore, does not apply.
- F. Oversteepened Slope Hazard Areas. Protection measures for oversteepened slope hazard areas will be accomplished through the review process of YMC 15.27.703, by implementing the development standards of YMC 15.27.704.
- G. 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.
- H. 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 15.27.703 and by implementing the development standards of YMC 15.27.704. (Ord. 2009-42 § 11, 2009; Ord. 2008-46 § 1 (part), 2008).

15.27.703 Development review procedure for geologically hazardous areas.

A. 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:

1. Within a mapped geologically hazardous area;
2. 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;
3. Within a distance from the base of an adjacent landslide hazard area equal to the vertical relief of said hazard area; or
4. Within the potential run-out path of a mapped avalanche hazard.

B. Developments that receive an affirmative determination of hazard by the administrative official under subsection A of this section must conduct a geologic hazard report as provided in YMC 15.27.315(C), which may be part of a geotechnical report required below.

1. 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.
2. 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.

C. Developments that receive an affirmative determination of hazard, but do not meet the provisions of subsection (B)(1) or (B)(2) of this section, must:

1. Obtain a critical areas development authorization under Part Three;
2. Submit a geotechnical report that is suitable for obtaining grading and construction permits that will be required for development:
 - a. The geotechnical report shall incorporate a submitted assessment which includes the design of all facilities;
 - b. A description and analysis of the risk associated with the measures proposed to mitigate the hazards; and
 - c. Ensure the public safety, and protect property and other critical areas; and
3. Be consistent with YMC 15.27.704. (Ord. 2008-46 § 1 (part), 2008).

15.27.704 General protection requirements.

A. 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 on site or off site.

B. 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.

C. The geotechnical report shall incorporate methods to ensure that education about the hazard and any recommended buildable area for future landowners is provided.

D. The applicable requirements of grading and construction permits for developments in hazardous areas must be included in the development proposal and geotechnical report. (Ord. 2008-46 § 1 (part), 2008).

Part Eight. Critical Aquifer Recharge Areas (CARA)

15.27.800 Purpose and intent.

A. The Growth Management Act (RCW Chapter 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.

B. 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.

C. The intent of this part is to:

1. Preserve, protect, and conserve the city of Yakima's CARA from contamination; and
2. Establish a protection approach that emphasizes the use of existing laws and regulations while minimizing the use of new regulations.

D. It is not the intent of this part to:

1. Regulate everyday activities (including the use of potentially hazardous substances that are used in accordance with state and federal regulations and label specifications);
2. Enforce or prevent illegal activities;
3. 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);
4. Establish additional review for septic systems, which are covered under existing city of Yakima review processes;
5. Establish additional review for stormwater control, which is covered under existing review processes and has detailed permit review; or
6. 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. (Ord. 2008-46 § 1 (part), 2008).

15.27.810 Mapping.

A. 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 No. 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 to 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:

1. Depth to ground water;
2. Soil (texture, permeability, and contaminant attenuation properties);

3. Geologic material permeability; and
4. Recharge (amount of water applied to the land surface, including precipitation and irrigation).

B. 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-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. (Ord. 2008-46 § 1 (part), 2008).

15.27.820 Protection approach.

A. 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.

B. 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 this chapter (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.

C. 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.

D. 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 15.27.800(D).

E. The administrative 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.

F. The administrative 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. (Ord. 2009-42 § 12, 2009; Ord. 2008-46 § 1 (part), 2008).

Chapter 15.28

MASTER PLANNED DEVELOPMENT OVERLAY*

Sections:

- 15.28.010 Purpose.
- 15.28.020 Types of master planned development overlays—Permitted uses.
- 15.28.025 Minimum project size.
- 15.28.030 Application—Master planned development overlay.
- 15.28.035 Phased development.
- 15.28.038 Planned action—Environmental review.
- 15.28.040 Review process.
- 15.28.050 Master planned development overlay—Development agreement.
- 15.28.060 Implementing permits and approvals.
- 15.28.070 Vesting.
- 15.28.080 Modification of an approved master planned development overlay.

* Prior legislation: Ord. 98-63.

15.28.010 Purpose.

A. Purpose. A master planned development overlay (PD) is a comprehensive development plan intended to provide flexibility in design and building placement, promote attractive and efficient environments that incorporate a variety of uses, densities and/or dwelling types, provide for economy of shared services and facilities, and economically utilize the land, resources, and amenities. A master planned development overlay is intended to create regulatory incentives and standards that:

1. Allow flexibility in development standards and permitted uses while ensuring compatibility with neighboring uses;
2. Facilitate the efficient use of land and provide for a comprehensive review of integrated development projects;
3. Increase economic feasibility by fostering efficient arrangement of land uses, buildings, transportation systems, open space and utilities;
4. Preserve or enhance natural amenities, features, shorelines and critical areas in the development of a particular site;
5. Identify significant environmental impacts and ensure appropriate mitigation;
6. Provide certainty regarding the character, timing and conditions for planned residential, commercial, industrial and mixed-use development within an identified geographic area and vest such projects through a public review process;
7. Encourage environmentally sustainable development;
8. Provide needed services and facilities in an orderly, fiscally responsible manner;
9. Promote economic development, job creation and diversification and affordable housing in the city/~~county~~;
10. Create vibrant mixed-use neighborhoods, with a balance of housing, employment, commercial and recreational opportunities; and
11. Promote consistency with the goals, policies and objectives of the Yakima urban area comprehensive plan.

B. A master planned development may take the form of a residential, commercial, industrial, or mixed-use development. Each is intended to accommodate and facilitate larger scale development designed to accomplish integrated and flexible site planning. Residential, commercial and industrial master planned developments shall be allowed in zoning districts consistent with the primary use of the respective master planned development (e.g., residential PD in residential zones). A master planned development—mixed-use shall be permitted in any zoning district subject to specific findings that the site and master concept plan are compatible with existing adjacent land uses.

C. Applicants for master planned development will be encouraged to utilize unique and innovative facilities that encourage the efficient and economical use of the land; promote a sound system for traffic and pedestrian circulation; promote open space and use of natural and/or developed amenities; and provide an architecturally attractive, durable, and energy-efficient development. (Ord. 2008-46 § 1 (part), 2008).

15.28.020 Types of master planned development overlays—Permitted uses.

A. Types of Master Planned Developments. The following four types of master planned development overlays are authorized within the Yakima urban area:

1. Master Planned Development—Residential. A residential master planned development is designed to provide a type or mixture of residential dwellings (single-family, two-family, or multiple-family) with attendant streets, utilities, public facilities, and appurtenant common open space and recreational facilities or other areas or facilities. A residential master planned development is authorized in any residential zone (suburban residential (SR), single-family residential (R-1), two-family residential (R-2), and multifamily residential (R-3)); and professional business (B-1) and local business (B-2) zones. The residential master planned development may include incidental or supporting uses and facilities that are consistent with the primary use of the site for residential dwelling units.
2. Master Planned Development—Commercial. A commercial master planned development is designed for the integrated site planning of commercial, retail, office, or mixed commercial use (commercial, office and retail) developments. The commercial master planned development shall be for the primary purpose of providing commercial services and facilities, and may include any incidental and/or supportive land uses. A commercial master planned development is authorized in any commercial or business district (i.e., B-1, B-2, SCC, LCC, AS, GC, CBD, and RD) and light industrial (M-1) as identified in Table 4-1 (YMC Chapter 15.04).
3. Master Planned Development—Industrial. An industrial master planned development is designed to allow for the innovative site planning of industrial land uses and facilities, industrial parks and business parks. The industrial master planned development shall be allowed in light industrial (M-1) and heavy industrial (M-2) zoning districts as designated in Table 4-1 (YMC Chapter 15.04).
4. Master Planned Development—Mixed-Use. The intent of the mixed-use master planned development is to encourage the innovative mixture of residential, office, commercial, retail, and certain light manufacturing uses. Uses may be combined in single structures or buildings or may be designed in conjunction with other uses.

A mixed-use master planned development is intended to accommodate larger scale residential, commercial, retail, office, and/or recreational uses. It is recognized that mixed-use development will include innovative planning techniques; a mixture and variety of land uses; integrated planning of site improvements and structures; and site planning that increases the economic feasibility and efficient use of land. A mixed-use master planned development is authorized in any zoning district except airport support (AS) and heavy industrial (M-2).

B. Master Planned Developments—Permitted Uses. The following uses are permitted in master planned developments upon approval of a master development plan:

1. Residential Master Planned Developments.
 - a. One-family, two-family, and multifamily residences;

- b. Recreational and amusement facilities which are intended to serve the master planned development and general public including, but not limited to: golf courses, clubhouses, driving ranges, tennis courts, swimming pools, parks, community centers, and playgrounds;
- c. Schools, libraries, museums, and art galleries;
- d. Public services and facilities including police and fire stations;
- e. Manufactured home parks and subdivisions; provided, that the provisions of YMC 15.04.150 shall be met as a condition of approval of the master planned development; and
- f. Any other uses authorized in the underlying zone are pursuant to Type (1), (2), or (3) review and are set forth in Table 4-1 (YMC Chapter 15.04).

2. Commercial and Industrial Master Planned Developments.

- a. Uses are permitted in accordance with those uses allowed within the underlying zoning district as identified in Table 4-1 (YMC Chapter 15.04).
- b. Such other uses as are consistent with the Yakima urban area comprehensive plan and future land use map or are of a similar type and intensity as those uses allowed within the underlying zoning district as identified in Table 4-1 (YMC Chapter 15.04).

3. Mixed-Use Master Planned Development. Any residential, retail, commercial, office, public, light industrial, and/or recreational use may be permitted in a mixed-use master planned development provided such uses are designed in harmony with the overall site plan and do not adversely impact adjoining properties and development. It is recognized that uses may include a combination of residential, commercial, retail, service, and recreational uses developed in an innovative manner. It is the intent of this district to provide flexibility in design, concept, and usage in order to respond to and meet the needs of the community and marketplace.

C. Additional Uses Allowed. Unless otherwise restricted by subsection B of this section, the hearing examiner is authorized to recommend additional uses within a master planned development provided such uses are an integrated component of the development and not detrimental to surrounding land uses. Authorization of additional uses shall take into consideration the following factors:

1. Any nonresidential uses proposed in a master planned development—residential shall be primarily designed and intended for the use of the residents within the proposed development and planned as an integral part of such master planned development;
2. Nonresidential uses within a master planned development—residential are limited to those uses allowed as Class (1) or Class (2) uses in professional business (B-1), local business (B-2), and small convenience center (SCC), as listed in YMC Chapter 15.04, Table 4-1. Such nonresidential uses will be limited to no more than ten percent of the land contained in the master planned development, excepting recreational facilities or as otherwise provided in this chapter. No commercial or other intensive nonresidential use is permitted to be closer to the boundary of any adjacent residential district than is permitted for the same use by the underlying zoning; and
3. Residential uses within a master planned development—commercial or industrial shall be limited to those that are secondary to the primary commercial and industrial use and designed in a manner that is consistent with integrated site planning. (Ord. 2008-46 § 1 (part), 2008).

15.28.025 Minimum project size.

The minimum project size for a master planned development shall be two acres. All properties included in the master development plan shall be contiguous with logical outer boundaries. (Ord. 2011-52 § 9, 2011: Ord. 2008-46 § 1 (part), 2008).

15.28.030 Application—Master planned development overlay.

A. Application for Master Planned Development Overlay. The master planned development overlay zone shall be established only in conjunction with a master development plan, which sets forth the parameters for development of the property including a site plan and development agreement. An application for a master planned development may be submitted as a concept plan or consolidated with site-specific proposals (e.g., preliminary plat, use applications, etc.). The proposed master plan shall be for property under single ownership, or if in multiple ownerships, the master plan application shall be signed by each owner of property within the master plan and all owners shall agree to be bound by conditions of approval, including use, design and layout and development standards established through the hearing process. All properties included in the master concept plan shall be contiguous with logical outer boundaries located within the urban growth area (UGA). A proposed master concept plan may include properties both within and outside the jurisdictional boundaries of the city of Yakima; provided, that all areas are located within the UGA. Applications for master planned development overlays which transcend jurisdictional boundaries shall complete one of the following prior to acceptance of the application for processing:

1. Annexation of the remainder of the property lying outside of city limits into the city of Yakima; or
2. Submit a petition for annexation to the Yakima city council for the above-mentioned property, and attain and submit an early transfer of jurisdiction letter to the city of Yakima releasing the proposed land use application to be processed by the city of Yakima.

B. Development Plan—Submission Requirements. An application for master planned development shall include the following information:

1. Planning History. A summary of all previous known land use decisions affecting the applicant's property and a list of all outstanding conditions of approval with respect to such prior land use decisions.
2. Existing Property Information. An application for a master planned development shall contain the following information on and adjacent to the site, presented in narrative, tabular, and/or graphic formats:
 - a. Vicinity map that identifies surrounding uses within five hundred feet of the site boundary.
 - b. Legal description for the proposed master planned development together with a title report disclosing all lien holders and owners of record.
 - c. Zoning map that identifies base and overlay zoning designations for the site and surrounding property uses within five hundred feet of the site boundary.
 - d. Site description including the following information provided in narrative, tabular, and/or graphic formats:
 - e. Topography and natural resources including one-hundred-year floodplain; wetlands, rivers, streams, or other critical areas; and natural hazards such as steep slopes greater than fifteen percent, and unstable, impermeable, or weak soils.
 - f. Inventory of cultural, historic, and/or archaeological resources on the site, if any.
 - g. Existing buildings, if any, including use, location, size, and date of construction.
 - h. Existing on-site transportation systems including streets, sidewalks, and bike paths, if any.
 - i. Location and size of existing public and private utilities on the site including water, sanitary sewer, stormwater retention/treatment facilities, and electrical, telephone, and data transmission lines.
 - j. Location of public and private easements.
 - k. A description of the type, design, and characteristics of the surrounding properties for purposes of assessing the proposed master planned development effects.

3. Technical Studies. Technical studies may be required by the administrative official when potential adverse impacts are identified outside of the SEPA regulatory review process and may include the following:
 - a. A traffic impact analysis sufficient to assess access to the site and within the site, on-street parking impacts and limitations and necessary traffic-related improvements;
 - b. Drainage study;
 - c. Geotechnical analysis;
 - d. Noise analysis;
 - e. Visual composite; and
 - f. Other analysis of potentially significant issues as identified during the SEPA environmental checklist review.
4. Site Plan. The application shall include a concept site plan which includes the following elements:
 - a. Project boundaries;
 - b. Primary uses and ancillary uses;
 - c. Existing and proposed structures;
 - d. Gross floor area of development;
 - e. Maximum building heights;
 - f. Minimum building setbacks;
 - g. Maximum lot coverage;
 - h. Any other development standards proposed to be modified from the underlying zoning district requirements;
 - i. The proposed circulation system of arterial and collector streets including, if known, the approximate general location of local streets, private streets, off-street parking, service and loading areas, and major points of access to public rights-of-way, with notations of proposed public or private ownership as appropriate;
 - j. The proposed location of new and/or expanded public and private utility infrastructure;
 - k. Sitescreening, landscaping and street trees;
 - l. A master planned development incorporating commercial or industrial facilities must provide a buffer or site design along the perimeter of the master planned development, which shall reasonably transition the master planned development to any adjacent properties zoned or used for residential purposes. If automobile parking, driveways, or machinery operation are to be provided within one hundred feet of a master planned development boundary, sitescreening shall be provided in accordance with YMC 15.07.020;
 - m. Aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, solar access and shadow impacts;
 - n. Site features as appropriate to mitigate traffic, environmental, geotechnical, and other impacts as identified in technical studies required by this chapter; and
 - o. Shoreline and critical areas where applicable.

5. Development Agreement. The application should also include a draft development agreement including the following elements:

- a. Narrative description of project and objectives;
- b. Summary of development standards;
- c. Site plan elements;
- d. Development phasing, including times of performance to preserve vesting (YMC 15.28.070);
- e. Public meeting summaries;
- f. Performance standards and conditions addressing subsections (B)(5)(a) through (e) of this section;
- g. Criteria for determining major versus minor modifications and amendments; and
- h. Signatures by each owner of property within the master development plan area acknowledging that all owners will agree to be bound by conditions of approval, including use, design and layout, and development standards contained with an approved plan and development agreement. (Ord. 2008-46 § 1 (part), 2008).

15.28.035 Phased development.

The master planned development overlay application may include two or more phases of development; provided, that:

- A. The development plan identifies phases of the project in sufficient detail to evaluate timing and coordination of phased development;
- B. The proposed timing or sequencing of development, recognizing that phasing may require flexibility that is responsive to market demands;
- C. Each phase will be subject to development standards identified, adopted, and vested in the review process; and
- D. Each phase of a proposed master plan shall contain adequate infrastructure, landscaping and all other conditions in order to allow the phase to stand alone if no other subsequent phases are developed. (Ord. 2008-46 § 1 (part), 2008).

15.28.038 Planned action—Environmental review.

An application for master planned development overlay shall include a completed environmental checklist. If requested by applicant and deemed appropriate by the city/~~county~~, a master planned development overlay proposal may be designated by the city/~~county~~ as a planned action pursuant to RCW 43.21C.031(2) and WAC 197-11-164 et seq. (Ord. 2008-46 § 1 (part), 2008).

15.28.040 Review process.

A. Application. The master planned development overlay application shall be reviewed using the rezone procedures described in YMC 15.23.030. The criteria of YMC 15.23.030(E)(1) through (7) shall not be used. Upon filing of a complete master plan application and completion of the required environmental review process, the planning department shall forward the application, together with its recommendation, to the hearing examiner to conduct a public hearing and review in conformity with YMC 15.23.030.

B. Preapplication Conference. A master planned development site plan shall be subject to a preapplication conference prior to formal submittal. The preliminary site plan shall be submitted to the administrative official, which shall include the material outlined for a master concept plan as set forth in YMC 15.28.030(B). The administrative official shall coordinate with the appropriate departments and provide recommendations to the applicant regarding site planning; use and concept design; street, and utility layout, design, and location; development standards; and other matters pertinent to the application and review criteria.

C. **Public Hearing and Recommendation.** A master planned development application shall be reviewed in an open record public hearing before the hearing examiner. Hearings shall be as prescribed in YMC 16.03.030 and 16.03.040. The hearing examiner shall apply the master planned development review criteria set forth herein and issue a written recommendation to the legislative body to approve, approve with conditions, or deny the proposed master planned development. The hearing examiner may add recommended conditions as necessary to protect the general public interest, health, safety, comfort, and welfare from potential impacts, nuisances, hazards, or offensive conditions. The recommendation shall specifically include findings, conclusions, and conditions based on evidence and testimony in the open record public hearing.

D. **Master Planned Development—Review Criteria.** The hearing examiner shall evaluate a master planned development application and other evidence submitted into the record; and shall issue such recommendation based upon the following considerations and criteria:

1. The master planned development application demonstrates the economic and efficient use of land and provides for an integrated and consistent development plan for the site.
2. The applicant has identified development standards and uses that are consistent with the master plan and designed in a manner that is compatible with adjacent land uses after consideration of applicable mitigation and site design. The hearing examiner may consider development standards that are different from currently adopted development standards in order to provide flexibility in site planning; to implement project design and concepts; to respond to market conditions; or to otherwise achieve the public benefits contemplated by the concept plan.
3. Consideration shall be given to “low impact development” concepts.
4. There will be adequate infrastructure capacity available by the time each phase of development is completed.
5. The master planned development contains design, landscaping, parking/traffic management, and use mixture and location that limit or mitigate conflicts between the master planned development and adjacent uses. Consideration shall be given to site planning that supports land use flexibility through means of appropriate setbacks, landscaping, sitescreening, buffers, and other design features or techniques.
6. All potential significant off-site impacts including noise, shading, glare, and traffic have been identified and mitigation incorporated to the extent reasonable and practical.
7. The project is designed and includes appropriate consideration of open spaces and transportation corridors, designs of street and public open space amenities, and results in the functional and visual appearance of one integrated project.
8. The proposed development is not adverse to the public health, safety, or welfare.
9. The public benefits of approving the master planned development outweigh the effect of modification of standards to the underlying zoning district.
10. The proposed development is designed to be consistent with the provisions of the shoreline master program and critical areas ordinance of the appropriate jurisdiction.

E. **Legislative Body.** Following receipt of the hearing examiner’s recommendation, the legislative body shall schedule a closed record hearing for consideration of the hearing examiner’s recommendation on the master planned development overlay application. Upon conclusion of the hearing, the legislative body may:

1. Accept the hearing examiner’s recommendation;
2. Remand the master planned development application to the hearing examiner to provide supplementary findings and conclusions on specific issues;

3. Modify the hearing examiner's recommendation based upon testimony and evidence provided at the open record public hearing. In the event of a modification of the hearing examiner's recommendation, the legislative body shall enter its own modified findings of fact and conclusions of law as are necessary and consistent with their final determination; or
4. Deny the application, with or without prejudice.

F. Appeals. The legislative body's decision shall be the final decision on the project permit application, subject to appeal pursuant to the Land Use Petition Act (LUPA)—RCW Chapter 36.70C. (Ord. 2008-46 § 1 (part), 2008).

15.28.050 Master planned development overlay—Development agreement.

An approved master planned development overlay (including conditions and development standards) shall be incorporated into a development agreement as authorized by RCW 36.70B.170. The development agreement shall provide for vesting of such development conditions and standards as are deemed reasonable and necessary to accomplish the goals of the master planned development. This agreement shall be binding on all property owners within the master planned development and their successors and shall require that development of the subject property be consistent with and implement the provisions of the approved master planned development. The approved development agreement shall be signed by the city manager ~~or chairman of the board of the Yakima County commissioners~~ and all property owners and lienholders within the boundaries of the master planned development overlay and recorded prior to approval and/or issue of any implementing plats or permits. (Ord. 2008-46 § 1 (part), 2008).

15.28.060 Implementing permits and approvals.

A. Implementing Applications. Any development applications submitted for property within an approved master planned development overlay shall be reviewed for consistency with and implement the master planned development plan. Such implementing applications with appropriate fees shall include but not be limited to applications for preliminary plat approval, binding site plans, ~~certificates of zoning review~~ zoning decisions, building permits, and other similar applications. Any subsequent application shall be reviewed and approved in accordance with the conditions and standards adopted in the master planned development overlay.

B. Planned Action—Environmental Review. An applicant may submit a master planned development concept plan as a planned action pursuant to WAC 197-11-164. Any project review pursuant to the authorized planned action shall include the following:

1. Verification that the project meets the description in, and will implement any applicable conditions or mitigation measures identified in, the master planned development approval and ordinance or resolution; and
2. Verification that the probable significant adverse environmental impacts of the project have been addressed in environmental review in the context of the master plan review processes.

In the event the implementing project meets the above requirements, the administrative official may deem the project to qualify as the planned action designated in the master plan approval and a project threshold determination or EIS shall not be required (WAC 197-11-172(2).) The city/~~county~~ is authorized to place conditions on the project in order to address significant impacts that were not fully addressed through the planned action process. Public notice for projects that qualify as planned actions shall be tied to the underlying permit. (Ord. 2008-46 § 1 (part), 2008).

15.28.070 Vesting.

A. The master planned development review shall be vested to development regulations, standards, conditions, and laws applicable at the time the development agreement described in YMC 15.28.050 is recorded, inclusive of specific conditions and standards set forth in said development agreement. The vesting period shall be for the time stated in the development agreement associated with each specific master planned development and shall be agreed upon by the parties to the development agreement after giving consideration to the extent and complexity of the proposed development as well as specific development planning considerations raised by the developer. During the stated vesting period the applicant shall be entitled to implement the master planned development in accordance with the terms and conditions of approval described in the development agreement.

B. Vesting of rights may also include reservation of traffic capacity on public streets and roadways or capacity in public facilities such as sewer and water, if such reservations are specifically agreed upon in the development agreement required by YMC 15.28.050. Such reservations shall be applicable for the time set forth in the development agreement. (Ord. 2008-46 § 1 (part), 2008).

15.28.080 Modification of an approved master planned development overlay.

Implementation of the master development plan shall be reviewed through the Type (1) review process. Modifications to the adopted master development plan and/or development agreement may be requested from time to time. Minor modifications will undergo Type (2) review. Major modifications will undergo Type (3) review. The following criteria are established to assist this determination:

A. Type (1) Review Projects or Actions. Type (1) review process shall be applied to future Class (1) projects or actions in compliance with an approved master development plan and development agreement; and

B. Type (2) Review Projects or Actions. Type (2) review process shall be applied for minor modifications to an approved master development plan or development agreement.

A change or amendment to the approved master plan shall be deemed a “minor modification” if, in the reviewing official’s discretion, the following criteria are satisfied:

1. The amendment does not increase the areas identified for any particular land use or increase the residential density approved in the master plan;
2. The amendment does not increase the total floor area of nonresidential uses by more than five percent;
3. The amendment does not materially change the type and character of approved uses;
4. The amendment does not materially change parking or traffic circulation within the development;
5. The amendment does not materially change setbacks, buffers, landscaping, shoreline, critical areas, or other mitigation measures;
6. The amendment does not materially impact the overall design of the approved master plan; and
7. Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the master planned development which are deemed not to be material or significant in relation to the entire master planned development and are determined not to have any significant adverse effect on adjacent or nearby lands or the public health, safety or welfare.

C. Type (3) Review Projects or Actions. A major modification to the master development plan shall be subject to a Type (3) review and shall be referred to the hearing examiner in accordance with YMC 15.15.040. A “major modification” shall be any modification to an approved master development plan or development agreement that is deemed to be more significant than a “minor modification” as described hereinabove.

Type (2) and (3) review shall be conducted consistent with the provisions of YMC Chapters 15.14 and 15.15, respectively. For any changes falling outside the scope of such review, the procedures set forth in this chapter for original master development plan and development plan approval shall be followed. (Ord. 2008-46 § 1 (part), 2008).

Chapter 15.29

WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 15.29.010 Purpose.
- 15.29.020 Definitions.
- 15.29.030 Exemptions.
- 15.29.040 Permits required.
- 15.29.050 Application submittal/fees.
- 15.29.060 Development standards.
- 15.29.070 Design criteria.
- 15.29.080 Site selection standards.
- 15.29.090 Safety and industry standards.
- 15.29.100 Wireless conditional use permit criteria.
- 15.29.110 Wireless height variance.
- 15.29.120 Application review process.
- 15.29.130 Balloon tests—Visual impact assessments.
- 15.29.140 Third-party review.
- 15.29.150 Nonuse/abandonment.
- 15.29.160 Transfer of ownership.
- 15.29.170 Vacation of permits.
- 15.29.180 Violation—Penalty.
- 15.29.190 Relief, waiver, exemption.
- 15.29.200 Severability.

15.29.010 Purpose.

The purpose of this chapter is to establish general guidelines for the siting of wireless telecommunication facilities, including towers, antennas and support structures.

A. Goals. The goals of this chapter are to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antennas in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;
4. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;
5. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
6. Provide for the wireless communications needs of governmental entities.

Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary:

1. To manage the location of towers and antennas in the city;
2. To protect residential areas and land uses from potential adverse impacts of towers;
3. To minimize adverse visual impacts of towers through careful design, siting, landscape, screening, and innovative camouflaging techniques;

4. To accommodate an increased need for towers to serve the wireless communications needs of city residents;
5. To promote and encourage co-location on existing and new towers as an option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future;
6. To consider the public health and safety of towers to the extent permitted by the Telecommunications Act of 1996; and
7. To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures.

B. **New Uses.** All new telecommunication towers, antennas and support structures shall comply with this chapter after the effective date of the ordinance codified in this chapter.

C. **Existing Uses.** All telecommunication towers and antennas existing on the effective date of the ordinance codified in this chapter that are not in compliance with this chapter shall be allowed to continue as they presently exist, but will be considered nonconforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the requirements of this chapter.

D. **Facilitation of Wireless Service.** These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

E. **Conflict with Other Standards.** To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.020 Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them below. Additional definitions pertaining to the Yakima urban area zoning ordinance can be found in Chapter 15.02 YMC.

“Abandonment” means to cease operation for a period of sixty or more consecutive days.

“Administrator” means the director of the city’s department of community development and his or her designees.

“Antenna” means any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, structure or building for the purpose of providing wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for “cellular,” “enhanced specialized mobile radio” and “personal communications services,” telecommunications services, and its attendant base station.

“Antenna height” means the vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the natural grade of the parcel at the lowest elevation point of the support structure’s perimeter. “Antenna support structure” means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

“Applicant” means any provider or any person, partnership, company, or government agency that files an application for any permit necessary to install, maintain, or remove a personal wireless service facility within the city.

“Balloon test” means a test for a reasonable period of time to fly, or raise upon a temporary mast, a brightly colored balloon, that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower.

“Base station” is defined as a facility or support structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.

“Camouflage” means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. The term includes, without limitation: (a) the use of structures, design, colors, landscaping and location to disguise, hide, blend, or integrate with an existing structure that is not a monopole or tower; (b) placement of a wireless facility or component thereof within an existing or new structure; (c) “stealth structures” in which the antenna or other wireless facility component is disguised or concealed within a structure designed to appear as another structure (such as a church steeple or flagpole) or another natural form (such as a tree, rock or other natural feature); and (d) placement of a wireless facility or component thereof upon a site where the topography and existing trees, landscaping, evergreen trees, design, and colors of the facility so that such facility is significantly screened from view or designed to resemble or blend with surrounding natural features.

“Cell site” or “site” means a tract or parcel of land that contains wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with, and ancillary to, personal wireless services.

“City” means the city of Yakima.

“City property” means all real property owned by the city whether in fee ownership or other interest.

“Co-location” means the mounting or installation of an antenna or antennas on an existing tower or wireless facility for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

“Conditional use permit” or “CUP” means a process and approval as described in this chapter and in YMC Title 15, Yakima Urban Area Zoning Ordinance.

“COW” means “cell on wheels” or other temporary wireless communications facility.

“Design” means the appearance of wireless service facilities, including such features as their materials, colors, and shape.

“EIA” means the Electronics Industry Association.

“Equipment enclosure” means a structure, shelter, cabinet, or vault used to house and to protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

“Excess capacity” means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications facilities.

“Facilities” means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services and cable television services, including but not limited to poles with cross-arms, poles without cross-arms, wires, lines, conduits, cables, communications and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services and cable television services.

“FCC” or “Federal Communications Commission” means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

“Governing authority” means the city council of the city of Yakima.

“Governmental entity” means the state of Washington, Yakima County, the city, municipally owned utilities, and special purpose districts including the school, fire and library districts.

“Hearing examiner” means the duly appointed hearing examiner of the city.

“Major modification” means a co-location or other modification that constitutes a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(2).

“Minor modification” means a co-location or other modification that does not constitute a substantial change to an existing wireless facility or base station as set forth in YMC 15.29.060(A)(1).

“Modification” or “modify” means the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification. A modification shall not include repair and maintenance as defined by this chapter.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

1. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.
2. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.
3. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

“Natural grade” means the topographic condition and level of ground in place for the past five years or more, or the approved finished grade of land platted through the subdivision process.

“Occupy” means to construct, install, maintain, own, or operate telecommunications facilities located within city rights-of-way. The mere passage of electronic signals over, under, or through rights-of-way via telecommunications facilities owned by another telecommunications provider does not constitute occupying the rights-of-way.

“Overhead facilities” means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

“Person” means corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities and individuals.

“Personal wireless service,” “wireless service facilities,” “wireless facilities” and “facilities” used in this title shall be defined in the same manner as in 47 USC Section 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

“Protected areas” are: (a) the area commonly known as the Barge-Chestnut Neighborhood situated within the area bounded on the west by 36th Avenue, on the north by Summitview Avenue, on the east by 16th Avenue, and on the south by Tieton Drive; (b) established federal, state or local historic districts or historic district overlay zones; (c) proposed federal, state or local historic districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter “pending” historic district or overlay zones); (d) sites, buildings, structures or objects listed in the National Register of Historic Places; (e) state and local wildlife refuges, and

permanently protected archeological sites; and (f) designated areas subject to preservation or protection through recorded conservation easement.

“Provider” means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and/or individual that provides personal wireless service over wireless service facilities.

“Repairs and maintenance” means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

“Right-of-way use permit” means the authorization by which the city grants permission to a service provider to enter and use the right-of-way at a specific location for the purpose of installing, maintaining, repairing, or removing identified facilities.

“Rights-of-way” means land acquired or dedicated for public roads and streets, as further defined in YMC 15.02.020, but does not include (a) structures, including poles and conduits, located within the right-of-way; or (b) federally granted railroad rights-of-way acquired under 43 USC Section 912, and related provisions of federal law, that are not open for motor vehicle use.

“Screening” means an opaque fence and/or evergreen landscaping that fully conceals the property it encloses.

“Secondary use” means a use subordinate to the principal use of the property, such as commercial, residential, utilities, etc.

“Security barrier” means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

“Service provider” means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating or managing any facilities used to provide and providing telecommunications or cable television services for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city or town.

“State” means the state of Washington.

“Surplus space” means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.

“Telecommunications carrier” includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of providing telecommunications services to locations outside the city.

“Telecommunications service” means transmission of information, except cable television service, by wire, radio, optical cable, electromagnetic, or other similar means, for hire, sale, or resale to the general public. For the purposes of this definition, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals, and facilities necessary for governmental purposes. The city shall act on an application within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with conditions, or deny the application in accordance with the time frames set forth in specific sections of this chapter, YMC Title 16, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.

“Telecommunications service provider” includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications services, except cable television service, to residents, businesses or other locations within the city.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like. “Tower” also includes any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

“Underground facilities” means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

“Unlicensed wireless services” means commercial mobile services that operate on public frequencies and do not need an FCC license.

“Usable space” means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Washington Utilities and Transportation Commission.

“Utility facilities” means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility or telecommunications services.

“Utility pole” means any pole used primarily for the support and provision of lighting and/or transmission of power, telecommunications services, telephone, cable television, and other similar utilities and related fixtures, whether located within or outside the public right-of-way. Utility poles are subject to rights of ownership, applicable franchise provisions, applicable regulation by the Washington Utilities and Transportation Commission (WUTC), and statutes governing location and relocation.

“Visual impact assessment” means visual impact assessment with photo-simulation of the proposed facility. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.030 Exemptions.

The following are exempt from the provisions of this chapter and shall be permitted in all zones:

- A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
- B. Antennas and related equipment no more than ten feet in height that are being stored, shipped, or displayed for sale.
- C. Radar systems for military and civilian communication and navigation.
- D. Wireless radio utilized for temporary emergency communications in the event of a disaster.
- E. Licensed amateur (ham) radio stations.
- F. Satellite dish antennas less than two meters in diameter, including direct-to-home or site satellite services, when used as a secondary use of the property.
- G. Routine maintenance, replacement or repair of a personal wireless service facility and related equipment that does not constitute a modification; provided, that compliance with the standards of this chapter is maintained. Structural work or changes in height, type or dimensions of antennas, towers, or buildings are subject to the provisions of YMC 15.29.060(A).
- H. Subject to compliance with all other applicable standards of this chapter, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty days after the completion of such emergency activity.
- I. A COW or other temporary personal wireless telecommunications facility shall be permitted for a maximum of ninety days in any three hundred sixty-five day period or during an emergency declared by the city.

J. Telecommunications facilities of the city located upon city property and city utility poles and fixtures. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.040 Permits required.

The following table summarizes the permits required for the various types of personal wireless service facilities that meet the standards of this chapter:

Table 29-1		
Permit Table*		
Type of Use	Permit Type	Approval Type
Co-location/minor modification (no substantial change)	Modification	Administrative (if minor modification)
Co-location/major modification (substantial change in height)	Same as New Towers (depending on location)	Same as New Towers (depending on location)
New antenna (existing noncellular structures, industrial and commercial zoning districts)	Standard Wireless	Administrative
New tower (public or city-owned property)	Standard Wireless	Administrative/Lease
New tower (commercial or industrial zoning district, more than 300 feet from residential or protected area)	Standard Wireless	Administrative
New tower (in or within 300 feet of residential zoning district)	Standard Wireless—if camouflaged by stealth Wireless CUP**—if not camouflaged by stealth	Administrative or Hearing Examiner
New tower (in or within 300 feet of protected area)	Wireless CUP	Hearing Examiner
Any tower, antennas or modification not meeting standards of this chapter	Wireless Variance	Hearing Examiner
* Applicable permits include building permits and other permits required for installation. ** Wireless conditional use permit		

(Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.050 Application submittal/fees.

A. Standard Wireless Application. A complete application shall consist of the following:

1. A complete application form as provided by the community development department.
2. The name, address, signature and contact information of the applicant:

- a. If the applicant is not the landowner, applicant shall provide written authorization signed by the landowner authorizing the applicant to submit for permits on the landowner's behalf. The written authorization signed by the landowner shall contain a statement and acknowledgement by the landowner that the landowner shall be deemed a co-applicant by virtue of such authorization.
 - b. If any applicant or co-applicant is a corporation, trust, association, or other organized group or legal entity, it shall provide the date of such creation, and, if a foreign corporation, a copy of the certificate of authority filed with the state of Washington, Secretary of State's Office.
3. Evidence that the applicant is an FCC-licensed telecommunications provider or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the support structure.
 4. Legal description of the parcel.
 5. Site plan, drawn to scale, clearly indicating the location, type and height of the current or proposed wireless facility, accessory buildings, fencing, trees, landscaping, topographic contours of the site at two-foot intervals, location of utility easements, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, and all other items required in this chapter.
 6. Elevation drawings of the proposed wireless facility, drawn to scale and showing dimensions of the height and width of the facility.
 7. Proposed colors and materials of all components of the proposed wireless facility and of any fencing materials associated with the wireless facility.
 8. State Environmental Policy Act (SEPA) checklist, if required.
 9. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices.
 10. A copy of the FCC license for the intended use of the wireless telecommunications facilities.
 11. Method of proposed illumination, including a lighting plan showing the location of all proposed outdoor lighting fixtures, including direction and intensity of light, and including manufacturer's "cut-sheets" of all outdoor luminaries.
 12. The location of existing or proposed structures, trees, and other significant site features intended to camouflage the facility.
 13. A letter signed by the applicant stating the wireless facility will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations.
 14. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC RF emissions guidelines (non-ionizing electromagnetic radiation—NIER). If not categorically excluded, a complete RF emissions study is required to provide verification.
 15. Applicable fees.
 16. Other information for each permit and structure type as specified in subsection B of this section.
- B. Application by Permit Type, Structure Type and Location.** In addition to the information required for a standard permit in subsection A of this section, the following information shall be provided for each specified permit type or structure type:
1. New Towers and Base Stations.

- a. A current map and aerial showing the location of the proposed tower and/or base station; a map showing the locations and service areas of other personal wireless service facilities operated by the applicant in the city.
 - b. The approximate distance between the proposed tower and the nearest residential unit, residentially zoned properties, and protected areas.
 - c. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users.
 - d. An affidavit stating that (1) the applicant and landowner agree they will allow co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to market rates, and (2) the applicant and/or landlord agree to remove the facility within ninety days after abandonment.
 - e. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:
 - i. They, together with their heirs, successors and assigns, agree to be jointly and severally responsible to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original prestructure condition within the applicable time limits set forth in YMC 15.29.150 following receipt of a letter from the city indicating that the facility is deemed abandoned or in violation of this chapter; and
 - ii. In the event a permit is issued pursuant to this chapter, they authorize the city to record such affidavit or a memorandum thereof with the Yakima County auditor against title to the property for which the permit was issued.
 - f. A landscape and irrigation plan showing all methods to landscape, irrigate, and screen the base of new facilities.
 - g. An explanation of proposed methods of camouflaging (including stealth if applicable) and how the proposed camouflaging reflects conditions of the surrounding site and area.
2. Facilities in Residential Zoning Districts and Protected Areas.
- a. A statement describing the applicant's effort to first locate the proposed communications facilities on a government facility, a private institutional structure (such as a hospital or school), or other appropriate existing structures outside the residential zone or protected area and within a half-mile radius of the proposed site, and explaining why, based upon valid considerations including physical, technological, leasing, or other valid constraints, no more appropriate location is available.
 - b. A description of any existing buildings taller than thirty-five feet within one-half mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.
 - c. A statement describing the applicant's effort to first contact the owners of structures in excess of thirty-five feet within a one-quarter-mile radius of the site proposed and which from a location standpoint could meet the coverage/capacity objectives of the facility in the applicant's network. The statement shall, if applicable, confirm whether the applicant asked for permission to install the antenna on those structures and whether he or she was denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.
3. Modification Permit.
- a. Elevation drawings of the existing wireless facility, drawn to scale and showing dimensions of the height and width of the facility. (This drawing is required in addition to elevation drawing of proposed facility described under subsection A of this section);

- b. A landscape and irrigation plan showing all methods to landscape and screen the base of the modified telecommunication facility;
 - c. A computation and description of proposed modification establishing whether or not such modification constitutes a substantial change in the physical dimensions of the existing facility (if the application is for modification of an existing facility); and
 - d. Written authorization signed by the owner of said facility authorizing its modification. (Required if the applicant is not the owner of the existing wireless facility.)
4. Wireless CUP (Conditional Use Permit).
- a. An explanation of proposed methods of camouflaging and how the proposed camouflaging reflects conditions of the surrounding site and area.
 - b. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless conditional use permit prescribed in YMC 15.29.100.
 - c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.
5. Wireless Variance.
- a. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless height variance prescribed in YMC 15.29.110.
 - b. A statement describing the requested variance and why it is needed.
 - c. A list of owners of property within three hundred feet of the site and their associated mailing addresses.

C. Applicant to Provide Notice. For wireless conditional uses or variances, the city may require applicant to post notice at a location or locations deemed appropriate by the city, and will provide notice to the governing body of any affected historic district association or organization. Applicant shall provide an affidavit that all required notices have been posted and published as required. Additionally, and without limitation, the city may use any other means deemed advisable to provide advance notice to the public.

D. Fees. The application for a permit listed above shall be accompanied by a filing fee in the amount set forth in Table 29-2.

Table 29-2	
Application Fees*	
Permit Type	Fee
Modification (if minor)	\$300.00
Modification (if major)	\$500.00
Standard Wireless	\$500.00
Wireless Variance	\$1,500.00
Wireless Conditional Use Permit	\$3,500.00
* Separate fee required for each permit type associated with application. For an application requiring a wireless variance and a wireless conditional use permit, both the variance fee and the conditional use permit fee are required.	

(Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.060 Development standards.

A. Modifications to an Existing Wireless Facility or Base Station.

1. **Minor Modification.** Any modification of or co-location on an existing wireless facility that does not substantially change the physical dimensions of such tower or base station (as defined in subsection (A)(2) of this section), even if it exceeds the underlying standards of the zoning district, shall be deemed a “minor modification” and shall be administratively approved under a modification permit.
2. **Major Modification.** Any modification of or co-location on an existing wireless facility that substantially changes the physical dimensions of an existing wireless tower or base station shall be deemed a “major modification.” A substantial change occurs if:
 - a. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; or
 - b. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
 - c. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
 - d. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.
3. **Major Modification—Required Permits.** A major modification shall be processed under the same permit types as new towers located in the same zone and area. (See Table 29-1, Permit Table.)

B. Co-Location Capable—New Structures. To reduce the number of antenna support structures needed in the city in the future, the following standards apply to new towers or base stations:

1. **Requirement and Waiver.** New proposed support structures shall be designed to accommodate at least two additional antenna arrays equal to those of the applicant, and located as close to the applicant’s antenna as possible without causing interference. This requirement may be waived if such design is not feasible for aesthetic reasons, or necessary to preserve camouflaging or stealth structures in residential or protected areas; or provided, that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible or creates an unnecessary and unreasonable burden, based upon:
 - a. The kind of wireless telecommunications facilities site and structure proposed; or
 - b. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; or
 - c. Available space on existing and approved towers or other appropriate structures.
2. **Owner Certification.** The owner of a proposed tower, and his/her successors in interest, shall either:
 - a. Provide a written statement affirming that a master license agreement with another wireless provider or providers exists stating mutually acceptable terms and conditions for co-location for wireless facilities on the tower and site; or

b. Provide a written statement affirming that the owner and owner's successors will negotiate in good faith for the co-location and shared use of the proposed tower by other wireless service providers in the future, and shall allow shared use of the tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

C. Co-Location Encouraged—Existing Structures. To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing towers and structures is encouraged as follows:

1. Co-location is permitted by right under a modification permit, unless the modification constitutes a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. Changes to tower height that constitute a "substantial change" as defined by subsection (A)(2) of this section are subject to all provisions applicable to new towers and base stations described in this chapter.

2. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on a suitable existing structure or tower within one-half mile of the proposed facility.

3. All wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors.

D. Required Parking. Adequate parking shall be required for maintenance workers.

E. Balloon Test. A balloon test is required for any application requiring a wireless conditional use permit or variance. Additionally, the administrator may require a balloon test for any new wireless facility for which the administrator finds that such test will enable the city to better determine appropriate means of camouflage or other conditions.

F. Facilities in or within Three Hundred Feet of Residential Zone or Protected Area. The following standards apply to wireless facilities within residential zoning districts, and within three hundred feet of residential zoning districts.

1. Due Diligence Requirements. Applications to place antennas and towers in residential zoning districts or within three hundred feet of residential zoned districts shall demonstrate that the requirements of YMC 15.29.050(B)(2) have been met.

2. NEPA Requirements. Antennas and tower facilities proposed to be located in or within three hundred feet of an established or pending federal, state or local historic district or historic district overlay are facilities that may affect districts, sites, buildings, structures or objects significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places. (See 16 U.S.C. 470w-5; 36 CFR Parts 60 and 800.) Applicant shall comply with applicable provisions of the National Environmental Policy Act (NEPA), including but not limited to the environment assessment provisions of 47 CFR 1.1307 et seq. and comply with any mitigations imposed therein.

3. Certificate of Appropriateness Required. New wireless facilities, and any modification to existing wireless facilities that constitutes a "substantial change" pursuant to subsection (A)(2) of this section, proposed to be located in a local historic district, historic district overlay, or other protected historic site, listed in the city of Yakima registry of historic places, require a certificate of appropriateness from the Yakima historic preservation commission in accordance with the procedures set forth in Chapter 11.62 YMC prior to the issuance of any permit for the construction, installation or major modification of wireless facilities in such areas.

G. **Building Permits Required.** Issuance of wireless facility permits under this chapter shall authorize issuance of any necessary and appropriate building permits to accomplish such modification, subject to compliance with applicable permit requirements and fees. Applicant shall submit complete applications for all other construction permits necessary to accomplish the construction.

H. **Financial Security Required.** The applicant shall provide a financial guarantee in the form of a bond or other financial instrument acceptable to the city in an amount sufficient to reimburse all costs associated with facility removal should it be necessary.

I. **Utility Pole Installations. Reserved.** (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.070 Design criteria.

All facilities shall comply with the following standards:

1. **Setback.** A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. Except as otherwise set forth below, setbacks for facilities shall comply with the setback requirements of Chapter 15.05 YMC and Table 5-1.

a. **Right-of-Way Setback Exception.** The setback requirement is not applicable if the antenna and antenna support structure are located in the city right-of-way, provided the antenna is attached to an existing city tower or facility.

b. **Protected Areas.** In protected areas or where a proposed tower is on property abutting a protected area, towers shall be set back from all property lines a distance equal to one hundred ten percent of tower height as measured from ground level.

c. **Residential Zoned Districts.** In residential zoned districts or where a proposed tower is on property abutting a residential zoned district, towers shall be set back a minimum of one-half the tower height.

d. **Minor Modifications.** Any expansion of a base station or extension of height of an existing wireless facility that constitutes a minor modification shall be considered in compliance with the setback requirements previously approved for the existing wireless facility.

e. **Existing Wireless Facility on Established Lot—Exception.** The setback requirement is not applicable if the antenna and antenna support structure were constructed, or application for such construction vested, on a parcel created pursuant to RCW 58.17.040(8) prior to the effective date of this code. Wireless facilities constructed on and after the effective date of this code on parcels created pursuant to RCW 58.17.040(8) are subject to the setback requirements.

2. **Tower and Antenna Height.** The maximum height of a wireless facility is as follows:

a. In or within three hundred feet of a residential zoning district or protected area, no wireless facility shall exceed the height allowed by the underlying height limitation for the zoning district in which the facility is located, except that if the facility is camouflaged by stealth pursuant to subsection 8 of this section, the maximum height is sixty feet.

b. In CBD and B-1 zoning districts, the maximum height is sixty feet.

c. In all other zones, the maximum height is one hundred ten feet.

d. In any zoning district, the applicant shall have the burden of demonstrating that the tower is the minimum height required to meet the proven communications need.

e. Structures that exceed the above height limits may be permitted by variance pursuant to the cellular height variance provisions of YMC 15.29.110.

3. **Color.** Towers shall have a dark color such as forest green, charcoal or dark brown, depending on the surroundings or background, that minimizes their visibility, unless a different color is required by the FAA.

Colors shall be maintained and repainted as necessary to maintain original color, to repair fading through weathering, and to prevent flaking.

4. **Lights, Signals and Signs.** No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

5. **Fencing and Security.** The antenna support structure shall be secured against unauthorized entry. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by dense vegetative screen at least eight feet in depth along all visible portions of the fence.

6. **Anti-Climbing Device.** All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

7. **Camouflage Requirements.** All new towers and base stations, and major modifications to towers and base stations, must be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. When considering surrounding features that the facility is designed to reflect, nonconforming structures shall not be considered; nor shall structures such as utility poles, signs, smoke stacks, mechanical equipment, utility substations, other wireless-based structures or similar features that contribute to visual clutter of an area be used to determine an acceptable camouflage technique. In all zones, towers shall be camouflaged using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. Camouflaging for new towers and base stations shall include the following:

a. **Landscaping.** Landscaping is an element of camouflage. Landscaping, as described herein, shall be required to buffer personal wireless service facilities to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other on-site features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

b. **Buffers.** The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures:

i. A row of evergreen trees a minimum of six feet tall at planting a maximum of six feet apart shall be planted around the perimeter of the fence.

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. To the extent feasible, the tower or mount shall be placed amongst and adjacent to the drip line of three or more evergreen trees at least seventy-five percent of the height of the facility.

iv. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

c. **Continued Maintenance.** Applicant shall have a continuing obligation to maintain the landscaping improvements. In the event that landscaping is not maintained at the required level, the city after giving thirty days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full, or may seek enforcement through any available remedy.

- d. Trees—Recording of Conditions. To ensure that trees associated with camouflaging and screening are preserved, the following note shall be recorded on the property title:

All trees within 50 feet of the telecommunications facility located on this property, which serve to screen the telecommunications facility, shall be retained for the life of the telecommunications facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed. The City may require the trees to be replaced by the telecommunication provider.

8. Stealth Requirements. Any facility in or within three hundred feet of residential zoning district or protected area must be concealed within a stealth structure unless otherwise approved through a wireless conditional use permit. Stealth structures shall be designed as follows:

- a. The stealth camouflage structure or facility must be compatible with surrounding development by being either similar in height to surrounding structures or a sufficient distance from surrounding structures to create a significant visual separation;
- b. Stealth designs reflect features that are indigenous to the area. For example, towers designed to look like trees must be tree types that naturally or commonly occur in the surrounding neighborhood or district. Towers designed to look like buildings or structures must be of a design that reflects local architecture or structure types;
- c. Stealth designs look reasonably similar to the items they intend to mimic. For example, towers designed to look like flag poles have the common dimensions of flag poles, both in height and girth. Towers designed to look like steeples on churches are of a height and scale proportional to the building design. (Other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings.);
- d. After completion of construction, the antennas, towers and related facilities will be maintained within the stealth structure so as to be concealed from view or be viewed as the camouflaging stealth structure; and
- e. The administrator may impose other conditions or mitigations reasonably related to such structures as warranted by special conditions of the subject property and the type of camouflaging structure, including but not limited to additional or supplemental setback requirements, maintenance requirements, and other measures intended to accomplish the purposes of this chapter and section.

9. Antenna Criteria. Antennas on or above a structure shall be subject to the following:

- a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.
- b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must for technical reasons. In no event shall an antenna project more than sixteen feet above the roofline, including parapets.
- c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- d. The antenna may be attached to an existing mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
- e. On buildings thirty feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:

- i. The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
 - ii. Roof mounted antenna and related base stations are screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
 - iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.
 - iv. If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.
 - v. Antenna, antenna arrays, and support structures shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to comply with applicable building code standards. The antenna, antenna array, and their support structure shall be a color that matches the field or trim color of the structure on which they are mounted.
10. Guy Wires Restricted. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.
11. Equipment Structures. The standards for equipment structures (base stations) are as follows:
- a. Ground Structure.
 - i. The maximum floor area is five hundred square feet and the maximum height is twelve feet, unless the applicant demonstrates that a larger area and/or increased height is necessary to accommodate the proposed facility and possible co-location.
 - ii. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.
 - iii. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.
 - b. Roof Mounted Structure.
 - i. Equipment buildings mounted on a roof shall be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof mounted antenna may also be located within the building on which the antenna is mounted.
 - ii. Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent of the total roof area of the building the facility is mounted on, which may vary if co-location and adequate camouflage are used. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.080 Site selection standards.

A. Protected Areas. Protected areas are: (a) the area commonly known as the Barge-Chestnut Neighborhood situated within the area bounded on the west by 36th Avenue, on the north by West Summitview Avenue, on the east by 16th Avenue, and on the south by Tieton Drive; (b) established federal, state or local historic districts or historic district overlay zones; (c) proposed federal, state or local historic districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter “pending” historic district or overlay zones); (d) sites, buildings, structures or objects listed in the National Register of Historic Places; (e) state and local wildlife refuges, and permanently protected archeological sites; and (f) designated areas subject to preservation or protection through recorded conservation easement.

B. Discouraged Areas in B-2 and SCC Zoning Districts. New antenna and antenna support structures should be avoided in the following locations within the B-2 local business and SCC small convenience center zones when possible:

1. Within three hundred feet of residential areas.
2. Within three hundred feet of protected areas.

An applicant that wishes to locate in these areas shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a site, private institutional structure, or other appropriate existing structures more than three hundred feet from residential zoned districts or more than three hundred feet from a protected area, and that, due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available. Such antennas, towers and related facilities may be approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth. Such proposed structures are also subject to the balloon test and/or photo-simulation requirements of YMC 15.29.130 in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

C. Priority of Locations. The order of priorities for locating new personal wireless service facilities shall be as follows:

1. Co-location (See YMC 15.29.060(B) and (C)).
2. Industrial zoning districts.
3. Public property (See subsection E of this section).
4. Existing structures—industrial and commercial zoning districts (e.g., buildings, towers, and water towers).
5. Local business district (B-2) and small convenience center (SCC) zoning districts.
6. Residential zoned districts.
7. Protected areas.

D. Site Selection Criteria.

1. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall evaluate different sites within a one-quarter-mile radius to determine which site will provide the best screening and camouflaging while providing adequate service to satisfy its function in the applicant's system. If the applicant proposes a site that does not provide the best opportunities for screening and camouflaging then the applicant must demonstrate why the facility cannot be located at the site where it can be best screened and camouflaged and why the antenna must be located at the proposed site.
2. Wireless facility installations, including any low power mobile radio service facilities, shall be located and designed to minimize any significant adverse impact on residential property values. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of camouflage.

E. Siting Priority on Public Property.

1. Order of Preference. Where public property is sought to be utilized by an applicant, priority for the use of government-owned land for wireless antennas and towers will be given to the following entities in descending order:
 - a. City of Yakima, except that any facilities proposed for location within the airport safety overlay (ASO) are further subject to the limitations and requirements of Chapter 15.30 YMC;

- b. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of Yakima and private entities with a public safety agreement with the city of Yakima;
 - c. Other governmental entities, for uses that are not related to public safety; and
 - d. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.
2. Subject to City Discretion. The placement of wireless service facilities on city-owned property is subject to the discretion of the city and approval of lease terms that are acceptable to the city, and must comply with the following requirements:
- a. The facilities will not interfere with the purpose for which the city-owned property is intended;
 - b. The facilities will have no significant adverse impact on surrounding private property, or any significant adverse impact is mitigated by screening, camouflage or other condition required by city;
 - c. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
 - d. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;
 - e. The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice the city may require the applicant to remove the facilities at the applicant's expense. Telecommunication facilities serving essential government services and other government agencies shall have priority over other users;
 - f. The applicant must reimburse the city for any related costs that the city incurs because of the presence of the applicant's facilities;
 - g. The applicant must obtain all necessary land use approvals; and
 - h. The applicant must cooperate with the city's objective to encourage co-locations and thus limit the number of cell sites requested.

F. Special Requirements for Parks. The use of city-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:

1. The city parks commission has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation has been forwarded to the city council for consideration and approval;
2. In no case shall personal wireless service facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities; and
3. Before personal wireless service facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.090 Safety and industry standards.

A. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then wireless service providers governed by this chapter shall bring their

towers and antennas into compliance with the revised standards and regulations within six months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for revocation of permit.

B. **Building Codes—Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the Electronic Industries Association (“EIA”), as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty days, the city may remove the tower at the owner’s expense.

C. **Data Transmission Standards.** Towers shall be constructed to applicable Electronic Industry Association (EIA) standards, which may be amended from time to time. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable Federal Communications Commission (FCC) radio frequency (RF) emission standards.

D. **Inspection Report Filing.** Within sixty days of any required safety inspection performed in accordance with EIA and FCC standards, the facility operator shall file a copy of the report with the city. Each year after the facility becomes operational the facility operator shall file with the city a copy of maintenance reports for the prior twelve months. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.100 Wireless conditional use permit criteria.

A. **Uses Requiring Cellular Conditional Use Permit.** Any wireless facility listed in Table 29-1 as a wireless conditional use permit (wireless CUP) requires submittal of a wireless CUP application as described in YMC 15.29.050. Wireless CUPs require a public hearing before the hearing examiner and final approval by the hearing examiner.

B. **Criteria for Granting Cellular Conditional Use Permit.** Before any conditional use may be granted, the hearing examiner must find that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;
2. The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;
3. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
4. The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan; and
5. All reasonable and practicable measures have been taken to minimize the possible adverse impacts which the proposed use may have on the area in which it is located.

C. **Authority to Impose Conditions.** The hearing examiner may impose any conditions necessary to address identified impacts associated with the proposed wireless facility and ensure that the facility is compatible with surrounding development. The hearing examiner may:

1. Increase requirements in the standards, criteria or policies established by this title;

2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;
3. Require structural features or equipment essential to serve the same purpose set forth above;
4. Impose conditions similar to those set forth in subsections (C)(2) and (3) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;
5. Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which the use is proposed to be located;
6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and
7. Require the posting of construction and maintenance financial security sufficient to secure to the city one hundred fifty percent of the estimated cost of construction and/or installation and fifteen percent maintenance of required improvements.

D. Required Condition of Approval. The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H). This requirement applies whether specifically stated in the decision or not.

E. Conditional Use Permits—Effect of Hearing Examiner Decision. The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.110 Wireless height variance.

A. Applicability. A cellular height variance is required for any major modification to an existing tower, antennas, or base station or construction of a new tower, antennas, or base station that requires a height in excess of height limits defined in YMC 15.29.070(2).

B. Criteria for Granting Wireless Height Variance. The hearing examiner shall have the authority to grant a variance from the maximum height allowed for a tower, antenna or base station when, in his/her opinion, the conditions as set forth herein have been found to exist. A wireless height variance is subject to:

1. Compliance with standard wireless permit standards of YMC 15.29.120(D);
2. Standard variance procedures in Chapter 15.21 YMC (not including review criteria); and
3. All of the following criteria must be met:
 - a. The additional height is necessary to provide adequate service to the residents of the city and no other alternative is available;
 - b. A significant portion of the tower and related facilities are screened by existing evergreen trees or existing structures;
 - c. Strict application of current height limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven communications need;
 - d. The structure for which the variance is requested is in harmony with the general purpose and intent of this chapter;

- e. There is evidence that additional height is required to provide adequate service to the residents of the city and that no other alternative is available;
- f. There are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;
- g. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
- h. Any visual impacts will be mitigated to the greatest extent possible using camouflage, stealth or screening as defined by this chapter;
- i. The location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and
- j. The variance is the minimum necessary to grant relief to the applicant.

C. Decision. Based upon the information provided by the applicant, the results of the balloon test and visual impact analysis, and findings of compliance or noncompliance with the criteria set forth herein, the examiner may:

1. Approve an application for a variance, which may include additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions; or
2. Deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection B of this section.

D. Burden of Proof. The applicant has the burden of proving that the proposed wireless height variance meets all of the criteria in subsection B of this section. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.120 Application review process.

A. Preapplication Meeting. To expedite review of applications, a preapplication meeting with the administrator is strongly encouraged. The preapplication meeting will help the applicant determine what permits may be required for his or her proposed wireless facility, what additional information or studies may help in the review of the application, and what stealth and/or camouflaging techniques might be appropriate for the site. The administrator may help to identify protected areas and may also suggest vantage points from which a visual impact assessment should be based.

B. Review for Completeness. The administrator shall review each application for completeness as specified in YMC 15.29.050. After review of the application, the administrator shall issue a determination of completeness or incompleteness in accordance with Chapter 16.04 YMC. In addition to information required for a complete application, the administrator may request additional information from the applicant to review the proposal and determine compliance with the provisions of this chapter. Except for the timelines specified in subsection C of this section for applications to modify an existing wireless facility or base station, such administrative review, processing and issuance of administrative permits shall comply with the city's timelines and procedures governing review and issuance of administrative permits in Chapter 16.04 YMC.

C. Modification Permit Review. Applications for modifications to existing wireless facilities or base stations shall be reviewed as follows:

1. Determination of Major or Minor Modification. Within forty-five days of receipt of a complete application for modification, the administrator shall review and issue a written determination as to whether the requested modification is deemed a major or minor modification under the provisions of YMC 15.29.060(A). The administrator may request additional information from the applicant or any other entity to assist in this determination.
2. Finding of No Substantial Change—Minor Modification. If the modification is deemed by the administrator to be a minor modification under the provisions of YMC 15.29.060(A), he shall issue a

modification permit, which may include conditions necessary to achieve compliance with the provisions of this section. Issuance of the modification permit shall occur within forty-five days after receipt and approval of a complete application for a modification permit.

3. Finding of Substantial Change—Major Modification. If the administrator determines that such application constitutes a substantial change to the physical dimensions of an existing wireless tower or base station, he shall issue a written determination that the change is a major modification and direct the applicant to submit the appropriate application(s) as specified in Table 29-1 and YMC 15.29.050.

D. Standard Wireless Permit Review. Standard wireless applications apply to all new wireless facilities and base stations and to major modification of all existing wireless facilities and base stations. Standard wireless applications shall be reviewed as follows:

1. Administrative Decision. All standard cellular applications shall be subject to administrative review and decision unless they require an associated wireless conditional use permit or variance as specified in Table 29-1.

2. Camouflaging/Stealth Review. The administrator shall review the proposed method of camouflaging or stealth against conditions on or surrounding the site as follows:

a. The administrator shall consider how proposed design of the tower, placement on the site, topography of and surrounding the site, color, structures on and surrounding the site, and natural features on and surrounding the site help to blend the wireless facility into its setting.

b. The administrator may require a visual impact assessment as described in YMC 15.29.130 based upon lines of sight or vantage points identified by the administrator.

c. The administrator shall determine if the proposed camouflaging or stealth reasonably integrates the wireless facility into its setting. The administrator may impose conditions to ensure that the facility achieves this objective.

3. Compliance with Standards. The administrator shall review the proposal against all other standards of this chapter including, but not limited to, height, setbacks, color, design, lighting, landscaping, screening, and co-location capacity. If any items are found to be not in compliance, the administrator shall notify the applicant and direct him or her to either submit within two weeks, or other period of time deemed reasonable by the administrator considering the scope and complexity of the required revision, revised plans to address the compliance issue, or direct the administrator to render a decision on the application as submitted.

4. Written Decision. The administrator shall issue a written decision on the application within the time frame specified in Chapter 16.07 YMC, identifying any items not in compliance with this chapter, and including any conditions necessary to achieve compliance. The decision shall include a condition that building permits not be issued until financial security is provided pursuant to YMC 15.29.060(H).

5. Appeals. The determination or decision of the administrator on any application under this chapter shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.

E. Wireless Conditional Use Permit Review. Wireless conditional use permit applications shall be reviewed as follows:

1. Submittal of Application. An application for a conditional use permit under this chapter shall be submitted to the administrator, who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and YMC Title 16.

2. Balloon Tests and Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for both a balloon test and visual impact assessment. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be

based. Both the balloon test and visual impact assessment shall be completed prior to the scheduled public hearing.

3. **Additional Reports and Third-Party Review.** The administrator shall have authority to request additional information and reports from the applicant necessary to facilitate analysis of the proposal, including but not limited to third-party review in accordance with YMC 15.29.140 and reports, surveys and tests as provided in this chapter, when the administrator, in his or her sole discretion, deems such additional information necessary or appropriate to fully assess the impact of the proposal and any reasonable alternatives, to address mitigation measures identified in SEPA, NEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety of persons, or quiet enjoyment of property, identified by the administrator as likely, with reasonable probability, to result from the proposed project.

4. **Scheduling for Hearing.** Upon the administrator's determination that the application is complete and in compliance with filing requirements of this chapter, and that required balloon tests, visual impact assessments and other required reports have been finalized, the administrator in coordination with the hearing examiner shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of YMC Title 16.

5. **Hearing Examiner—Procedures—Factors.** When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

F. **Wireless Height Variance Review.** A wireless height variance shall be processed as follows:

1. **Procedures and Applicable Criteria.** A wireless height variance shall be reviewed under the procedures described in Chapter 15.21, except that the hearing examiner shall apply the criteria for review and approval defined in this chapter.

2. **Balloon Tests and Visual Impact Assessment.** The administrator shall instruct the applicant on the requirements for both a balloon test and visual impact assessment. The administrator may provide input on both the timing of the balloon test and the desired vantage points from which the visual impact assessment will be based. Both the balloon test and visual impact assessment shall be completed prior to the scheduled public hearing.

3. **Third-Party Review.** Applications for variance may also require third-party review as described in YMC 15.29.140.

4. **Hearing Examiner Decision.** The hearing examiner shall determine whether the proposed variance complies with the criteria for a variance in YMC 15.29.110, and that the proposed wireless facility complies with all other standards of this chapter. If the examiner finds that the proposal does not comply with the criteria for a variance he shall deny the variance and associated wireless facility. If the examiner finds that the proposal complies with the criteria for a variance and with all other development standards of this chapter, he shall approve the variance and the associated wireless facility. The examiner may impose any conditions necessary to ensure compliance with all standards. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.130 Balloon tests—Visual impact assessments.

A. **Balloon Test.** Where a balloon test is required, the applicant shall, prior to the public hearing on the application, hold a balloon test. The applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon that is representative in size of the initial antenna array including all standoffs, at the maximum height of the proposed tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven and fourteen days in advance of the first test date in a newspaper with a general circulation in the city. The applicant shall inform the city, in writing, of the dates and times of the test, at least fourteen days in advance. The balloon shall be flown for at least seventy-two consecutive hours on the dates chosen. At least twenty-four hours of this time shall be on a weekend. No trees shall be removed to conduct the balloon test. A report with pictures from various locations of the balloon shall be provided with the application. Photos of the balloon test from three locations located approximately three hundred feet from the base

of the proposed tower and spaced evenly in a circumference around the proposed tower and three locations located approximately one-quarter mile from the base of the proposed tower shall be submitted within two weeks after the commencement of the balloon test.

B. Visual Impact Assessment. A visual impact assessment with photo simulation of the proposed facility is required for all applications that require a conditional use permit or variance, and may be required by the administrator for any other application deemed necessary by the administrator to assess visual impacts associated with such application. As part of such application, the applicant shall furnish a visual impact assessment, which shall include:

1. Zone of Visibility Map. If a new tower or substantial modification increasing the height of an existing structure is proposed, a computer generated “zone of visibility map” at a minimum of one-mile radius from the proposed structure, with and without foliage, shall be provided to illustrate locations from which the proposed installation may be seen.
2. Photo Simulations. Pictorial representations of “before and after” (photo simulations) views from key viewpoints within the zone of visibility. Guidance will be provided, concerning the appropriate key sites at the preapplication meeting, as required. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
3. Description of Visual Impact. A written description of the visual impact of the proposed facility including, and as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of camouflaging. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.140 Third-party review.

Personal wireless service providers use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of their services and low power mobile radio service facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third-party expert may need to review the technical data submitted by a provider. The city may require a technical review as part of a permitting process for a variance or conditional use permit. The costs of the technical review shall be borne by the provider.

The selection of the third-party expert may be by mutual agreement between the provider and the city, or, at the discretion of the city, with a provision for the provider and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to address interference and public safety issues and be a site-specific review of technical aspects of the facilities or a review of the providers’ methodology and equipment used and not a subjective review of the site that was selected by a provider. Based on the results of the expert review, the city may require changes to the provider’s application. The expert review shall address the following:

1. The accuracy and completeness of submissions;
2. The applicability of analysis techniques and methodologies;
3. The validity of conclusions reached; and
4. Any specific technical issues designated by the city. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.150 Nonuse/abandonment.

A. Notice of Abandonment. No less than thirty days prior to the date that a personal wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the city of Yakima by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the city’s discovery of discontinuation of operation. Upon such abandonment, the provider shall have sixty days or additional period of time determined in the reasonable discretion of the city within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or
2. In the event that abandonment as defined in this chapter occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove the portion of the tower that exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the provider's towers in the city or surrounding area then all of the towers within the city shall similarly be reduced in height.
3. **Dismantle and Remove Facility.** If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in subsection (A)(2) of this section, this provision shall not become effective until all providers cease using the facility.

B. **Expiration of Approval.** At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.160 Transfer of ownership.

A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.170 Vacation of permits.

A. Any permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exists.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the community development department with the city. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.180 Violation—Penalty.

Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.190 Relief, waiver, exemption.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this chapter may request such, pursuant to and in compliance with the applicable provision on general variances as contained in Chapter 15.21 YMC; provided, that the relief or exemption is contained in the submitted application for permit or, in the case of an existing or previously granted permit, a request for modification of its tower and/or facilities. Such relief may be

temporary or permanent, partial or complete. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the city, its residents and other service providers. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

15.29.200 Severability.

a. If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force and effect.

b. Any permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city. (Ord. 2013-051 § 2 (Exh. A) (part), 2013).

Chapter 15.30

AIRPORT SAFETY OVERLAY (ASO)

Sections:

- 15.30.010 Purpose.
- 15.30.020 Applicability.
- 15.30.030 Definitions.
- 15.30.040 Airport safety overlay zones.
- 15.30.050 Height limitation.
- 15.30.060 Land use overlays.
- 15.30.070 Application requirements.
- 15.30.080 Nonconforming uses.

15.30.010 Purpose.

The airport safety overlay is intended to protect the airspace around the Yakima Air Terminal at McAllister Field and any other state and federal system airports from airspace obstructions or hazards and incompatible land uses in proximity to the Yakima Air Terminal at McAllister Field or other public airport with defined airspace per Federal Aviation Regulations (FAR) Part 77.

Property within the airport safety overlay may be exposed to aircraft noise, vibration, fumes, dust and fuel particulates, as may be inherent in the operation of aircraft, now known or hereafter used for aircraft navigation and flight while using said airspace for landing at, taking off from, or operating within the airport area. (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

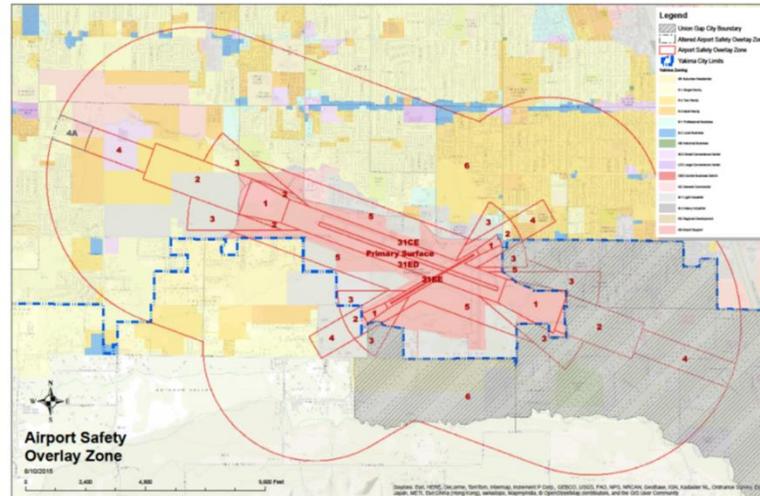
15.30.020 Applicability.

The provisions of this chapter shall apply to all lands, buildings, structures, natural features or uses located within those areas that are defined by the airport overlay district and designated on the Yakima Air Terminal at McAllister Field Part 77 Surfaces map which identifies areas of height limitations and the airport safety overlay zones map shown below as Figure 30-1. (This figure is for illustration purposes only. An accurate depiction of the airport safety overlay zones map can be found on the city's GIS website, which is maintained by the city's information systems department.) (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

15.30.030 Definitions.

The following terms are established for the purpose of protecting the airspace of the Yakima Air Terminal at McAllister Field or any other state and federal system airport:

Figure 30-1: Airport Safety Overlay Zone Map



“Airport” means the Yakima Air Terminal at McAllister Field operated by the city of Yakima including all property designated in the Yakima Air Terminal at McAllister Field Master Plan as part of the airport.

“Airport elevation” means the highest point of an airport’s useable landing area measured in feet from sea level. The Yakima Air Terminal at McAllister Field is one thousand forty-nine feet above mean sea level.

“Airport influence area” includes airport property and all land within the airport safety overlay zones 1 through 6 as described in YMC 15.30.040 and depicted in the airport safety zones map adopted in the Yakima Air Terminal at McAllister Filed Master Plan.

“Airport use” means any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an airport or heliport. Such uses specifically include runways, taxiways, and their associated protected areas defined by the Federal Aviation Administration, together with aircraft aprons, hangars, fixed base operations, terminal buildings, etc. Other uses also include airport commercial, airport industrial, and airport operations, as defined in YMC 15.02.020.

“Approach surface” means an imaginary surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in YMC 15.30.050. The perimeter of the approach surface coincides with the perimeter of the approach zone.

“Conical surface” means an imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one for a horizontal distance of four thousand feet.

“Deed notice” means a formal statement, provided in YMC 15.30.070(D), as a note on the face of a short plat, major subdivision or binding site plan or recorded against the property notifying potential property owners that the property is located adjacent to an active airport and said property may be impacted by aircraft noise, odors, vibration, and low flying aircraft.

“FAA Form 7460-1, Notice of Proposed Construction or Alteration” means a form which the Federal Aviation Administration (FAA) requires to be completed by anyone who is proposing to construct or alter an object that could affect airspace within the airport influence area and allows the FAA to conduct an airspace analysis to determine whether the object will adversely affect airspace or navigational aids.

“FAR Part 77 surfaces” means the part of 49 CFR of the Federal Aviation Regulations that deals with objects affecting navigable airspace.

“FAR Part 77 zones” means imaginary airspace surfaces established with relation to each runway of an airport. There are five types of surfaces: (1) primary; (2) approach; (3) transitional; (4) horizontal; and (5) conical.

“Hazard to air navigation” means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height. For the purpose of determining the height limits in all zones and as shown on the Yakima Air Terminal at McAllister Field Future Part 77 Zones map, this datum shall be height above mean sea level elevation unless otherwise specified.

“Horizontal surface” means a horizontal plane one hundred fifty feet above the established airport elevation, the perimeter of which plane coincides with the inner perimeter of the conical surface. This is one thousand one hundred ninety-nine feet above mean sea level for the Yakima Air Terminal at McAllister Field.

“Infill” means the practice of developing or redeveloping vacant or underutilized land in the midst of a community, especially land that is surrounded by existing uses similar to the ones proposed. This may mean further subdivisions of existing parcels to accommodate additional growth, redevelopment of under-utilized property to increase its density or intensity, or simply creation of new development on vacant land.

“Nonconforming use” means any use, situation, lot, building or structure that legally existed prior to the adoption of a development regulation that would otherwise prohibit its use.

“Obstruction” means any object of natural growth, terrain, of permanent or temporary construction or alteration, including equipment or materials used therein which exceeds a limiting height set forth in YMC 15.30.050.

“Object of natural growth” means a tree, shrub or similar organic or vegetative matter.

“Precision approach” means a landing approach made without visual reference to the ground by the use of aircraft instruments and ground-based electronic or communications systems or devices. An aircraft making such an approach should be flying in accordance with an IFR (Instrument Flight Rules) flight plan.

“Primary surface” means a surface longitudinally centered on a runway with a width of one thousand feet for instrument approaches and five hundred feet for visual approaches. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The elevation of the primary surface at the Yakima Air Terminal at McAllister Field is one thousand forty-nine feet above mean sea level.

“Runway” means a defined area on an airport prepared for landing and take-off of aircraft along its length.

Transitional Surfaces. These imaginary surfaces extend outward at ninety-degree angles to the runway centerline, and runway centerline extended, at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect with the horizontal and conical surfaces.

“Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan. (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

15.30.040 Airport safety overlay zones.

Zone 1—Runway Protection Zone. This zone encompasses the runway protection zone (RPZ) at each end of the runway and should use the RPZ dimensions established in accordance with FAA standards (RPZ dimensions depend mostly on the visibility minimums for the approach to that runway end). Also included in the zone are the strips of land immediately adjacent to the runway where FAA standards preclude structures. Zone 1 is where the greatest concentration of accidents take place.

Zone 2—Inner Approach/Departure Zone. This zone wraps around and extends beyond zone 1 along the runway centerline. Next to the RPZ, it represents the area where the risk of aircraft accidents is the greatest. On departure, aircraft are typically at full power in the initial phase of climb. On approach, they are at low altitude as they prepare for landing.

Zone 3—Inner Turning Zone. This zone is a wedge-shaped area lying along the sides of zone 2. It is primarily significant at general aviation airports where most of the flights are visual. At airports where most aircraft approach and depart on instrument flight plans, then the close-in turns which are the concern with zone 3 can be a narrow wedge. When operating visually, departing aircraft may begin turning over this area to fly toward their destination or to remain in the traffic pattern. Arriving aircraft often overfly this area as well, especially if they are flying a tight pattern. One type of accident known to occur in this area is a low-altitude stall-spin that can happen if a pilot attempts to make too tight of a turn.

Zone 4—Outer Approach/Departure Zone. This area lies beyond zone 3 along the extended runway centerline. Aircraft flying straight out or in overfly this area at low altitude. The zone is particularly significant on runways where much of the operations are on instrument procedures and at busy airports where elongated traffic patterns are common. The risks in this area are moderate, but less than in zones 1 through 3.

Zone 5—Sideline Zone. Lying in narrow bands along each side of the runway, aircraft do not normally fly over the sideline zone. The principal risk is from aircraft that lose directional control while landing or just after takeoff. The risks are lower than in zones 1 through 3 and similar to those of zone 4.

Zone 6—Traffic Pattern Zone. The final zone contains the remainder of the airport environment where aircraft fly as they approach and depart the airport or are engaged in flight training. In area, zone 6 is typically larger than the other

zones combined. A substantial percentage of accidents take place here, but they are scattered over the large area. (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

15.30.050 Height limitation.

The height limitation zones are hereby established, consistent with the FAR Part 77 Surfaces—Objects Affecting Navigable Airspace, and are described below. All height limitations shall adhere to the FAA approved airport layout plan.

Height Limitation 1 (Zone 1, 2, 3, 4, and 5). No building within this zone shall exceed thirty-five feet above the ground.

Height Limitation 2 (Zone 6). No building within this zone shall exceed thirty-five feet above the ground. Any building proposed to exceed this height must undergo further review by the airport manager and the FAA.

The administrative official may require lights or markers as a warning to aircraft on any building, structure, communication tower, use, or tree(s) or to top the tree to reduce its height when recommended by the FAA, WSDOT Aviation Division or the airport manager. Lights and markers shall meet FAA specifications.

Whenever the height limitations of this section differ from those of any other section of this chapter, or that adopted by another local ordinance or regulation, the more restrictive limitation shall apply. (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

15.30.060 Land use overlays.

Zones described below are shown in the airport safety overlay zone (ASOZ) map with the types of land use review listed below in order to promote general safety and welfare of properties surrounding the airport and the continued viability of the airport.

Land Use Overlay 1 (Zone 1—Runway Protection Zone (RPZ)):

Only airport uses and activities are allowed within the Runway Protection Zone.

Land Use Overlay 2 (Zones 2, 3, 4, and 4A—Inner Safety Zone, Inner Turning Zone, and Outer Safety Zone):

Class (1) Uses. Any Class (1) use listed in YMC 15.04.030 Table 4-1—Permitted Land Uses, unless otherwise mentioned in this section.

Class (2) Uses. Agricultural building; agricultural related business; animal husbandry; correction facilities; golf courses; campground; gymnasiums, exercise facilities; motels and hotels; canning, preserving, and packaging fruits, vegetables, and other foods; cement and concrete plants; concrete gypsum and plaster products; power generating facilities; utility services; residential infill (within 4A); mixed-use residential (within 4A); cluster development (within 4A).

Class (3) Uses. Agricultural market; junior or community college; business school; vocational school; bed and breakfast inn; communication towers; residential infill; mixed-use residential; cluster development.

Prohibited Uses. Schools (K—12), community centers, nursing home and group homes, day care facilities, hospital, new churches, shopping centers and other uses with similar concentrations of persons, rendering plants and slaughter houses. Other prohibited uses shall be: horse racing tracks, speedways; the production of asphalt paving and roofing materials; rock crushing; fuel storage facilities; storage or use of significant amounts of materials which are explosive, flammable, toxic, corrosive or otherwise exhibit hazardous characteristics; hazardous wildlife attractants including waste disposal operations, water management and storm water facilities with above-ground water storage, and manmade wetlands.

Zone 4A shall exist as depicted on Figure 30-2 until such time that the airport's main runway (9/27) is extended as described in the Airport Master Plan. Any Class (2) development which occurs within zone 4A prior to the extension of the runway shall be required, as a precedent condition of approval, to record a deed declaration with the Yakima County auditor which specifically recognizes the preexistence of the airport and the right of aircraft over flight, as well as acknowledging and accepting all responsibility for exposure to noise, vibration, fumes, dust and fuel

particulates, as may be inherent in the operation of aircraft. In addition to these conditions, all Class (2) development within zone 4A shall be subject to a recorded deed restriction providing the city with an absolute indemnification with regard to any adverse impacts resulting from or claimed to result from effects of aircraft over flight.

Land Use Overlay 3 (Zone 5—Sideline Safety Zone):

Uses within the sideline safety zone (Zone 5) may be permitted by the administrative official if the use is determined to be compatible with the zoning district and Appendix F of the Airports and Compatible Land Use Guidebook of the Washington State Department of Transportation Aviation Division.

Uses labeled as “Permitted” in Zone 5 within Appendix F of the Airports and Compatible Land Use Guidebook shall be considered a Class (1) use and undergo any Type (1) review unless a higher level of review is required per YMC 15.04.030, Table 4-1 Permitted Land Uses. Uses labeled as “Limited” or “Limited Special Conditions” in zone 5 within Appendix F of the Airports and Compatible Land Use Guidebook shall be considered a Class (2) use and undergo any Type (2) review unless a higher level of review is required per YMC 5.04.030, Table 4-1 Permitted Land Uses. All uses listed as “Prohibited” in zone 5 within Appendix F of the Airports and Compatible Land Use Guidebook shall not be allowed.

Figure 30-2: Depiction of Zone 4A



Land Use Overlay 4 (Zone 6—Traffic Pattern Zone):

Class (1) Uses. Any Class (1) use listed in YMC 15.04.030, Table 4-1 Permitted Land Uses, unless otherwise mentioned in this section.

Class (2) Uses. Retirement home; churches, synagogues, temples; convalescent, nursing home and group homes; day care facilities and centers; correction facilities; communication towers; chemicals (industrial, agricultural, wood, etc.); rendering plants and slaughter houses; power generating facilities.

Class (3) Uses. Amusement park.

Prohibited Uses. Schools (K—12), hospitals and other uses with similar concentrations of persons. Replacement or expansion of existing schools shall be allowed.

Any use not specified in the above paragraphs must undergo review and receive approval from the airport manager. (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

15.30.070 Application requirements.

A. Applications for uses within the airport safety overlay established by this chapter shall include the following information:

1. Property boundary lines as they relate to the boundaries of the land use overlay;
2. Location, elevation, and height of all existing and proposed buildings, structures, utility lines, and trees taller than thirty-five feet in height;

3. A description of the proposed use; and
 4. A statement of compatibility from the airport manager when the use is to be located within the airport safety overlay relative to the impact of the use on airport operations and safety.
- B. In consideration of an application for a building, structure, or other use which will exceed thirty-five feet in height, the administrative official may require the applicant to submit either of the following:
1. A certificate from a registered professional engineer or a licensed land surveyor, which clearly states that no airspace obstruction will result from the proposed use; or
 2. Either or both of the following:
 - a. The maximum elevations of proposed structures based on the established airport elevation and USGS datum. Elevations shall be determined by a registered professional engineer or a licensed land surveyor, accurate to plus or minus one foot, shown as mean sea level elevation or other available survey data. The accuracy of all elevations shall be certified by the engineer or surveyor.
 - b. A map of topographic contours with not more than five-foot intervals, showing all land within one hundred feet of the proposed structure(s) for which the permit is being sought. This map shall also bear the verification of a licensed land surveyor or registered professional engineer.
- C. Decisions by the administrative official may be appealed in accordance with YMC Chapter 15.16.
- D. An aviation easement and deed declaration, which recognizes the preexistence of the airport and the right of over flight, shall be recorded for all uses within the approach and transitional surfaces of the conical surface area. (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

15.30.080 Nonconforming uses.

Existing uses that do not meet these standards at the time of adoption of this overlay may remain and will be considered nonconforming uses. Expansion of these uses is permitted through Chapter 15.19 YMC. For a use that is nonconforming due to height, the height may not be increased unless approved by the airport manager. (Ord. 2015-028 § 2 (Exh. A) (part), 2015).

Chapter 15.31

INSTITUTIONAL OVERLAY

Sections:

- 15.31.010 Purpose.
- 15.31.015 Eligibility and applicability.
- 15.31.020 Permitted uses.
- 15.31.025 Supplemental application submittal requirements.
- 15.31.026 Public meeting required prior to application submittal.
- 15.31.030 Review process.
- 15.31.040 Development standards.
- 15.31.050 Effect of approval.
- 15.31.060 Subsequent actions and project applications under an approved master plan—Amendments to master plan.

15.31.010 Purpose.

The purpose of the institutional overlay zone is to allow for large-scale institutional facilities with special locational needs and impacts which must be designed and perform in a manner that is compatible with surrounding land uses. Through a master plan review process (YMC 15.31.030) the public is involved in the development of performance standards. A development agreement and site master plan assure predictability for the owner, the appropriate jurisdiction and the citizen. The process balances the need for large-scale institutional facilities to grow while minimizing adverse environmental impacts associated with such development on the adjacent community. (Ord. 2008-46 § 1 (part), 2008).

15.31.015 Eligibility and applicability.

- A. Construction or expansion of hospital and community college institutional uses will be permitted only in institutional overlay zones designated on the official zoning map of the appropriate jurisdiction.
- B. The institutional overlay designation is not required as a precondition for interior improvements or external on-site improvements for facilities existing as of the date of adoption of this chapter where said improvements do not expand the existing building or land area.
- C. The institutional overlay designation is not required for institutions located in commercial, industrial or other nonresidential zones, except when located adjacent to a residential district.
- D. Either the sponsoring institution or the city/~~county~~ may initiate the establishment of an institutional overlay zone.
- E. The minimum area which may be included within an institutional overlay zone shall be five acres, measured to the center of abutting street rights-of-way. The addition of contiguous property to an existing institutional overlay zone shall have no minimum required area but shall require an amendment to the official zoning map. (Ord. 2008-46 § 1 (part), 2008).

15.31.020 Permitted uses.

The institutional overlay zone is intended to allow for the establishment, expansion, and revision of institutional uses including hospitals and higher educational facilities. Uses that are functionally integrated with, ancillary to, and/or substantively related to the primary institutional use or that primarily and directly serve the users of an institution may be defined as permissible institutional uses through the master development plan review process and development agreement. (Ord. 2008-46 § 1 (part), 2008).

15.31.025 Supplemental application submittal requirements.

The institutional overlay zone shall be established only in conjunction with a master development plan, which sets forth the parameters for development of the property including a site plan and development agreement. Applicants for an institutional overlay shall, in addition to the requirements of YMC Chapter 15.23, submit a master development plan to include the following:

- A. Technical studies, including:
1. A traffic impact analysis sufficient to assess access to the site and within the site, on-street parking impacts and limitations and necessary traffic-related improvements;
 2. Drainage study;
 3. Geotechnical analysis;
 4. Noise analysis; and
 5. Other analysis of potentially significant issues as identified by the SEPA environmental checklist.
- B. Master site plan which includes the following elements:
1. Boundaries of the institution;
 2. Primary uses and ancillary uses;
 3. Gross floor area of development;
 4. Maximum building heights;
 5. Minimum building setbacks;
 6. Maximum lot coverage;
 7. Minimum and maximum number of off-street parking spaces;
 8. Sitescreening;
 9. Aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, landscaping, street trees, solar access, and shadow impacts; and
 10. Site features as appropriate to mitigate traffic, environmental, geotechnical, and other impacts as identified in technical studies required by this chapter.
- C. Draft master development agreement including the following elements:
1. Narrative description of project and objectives;
 2. Restatement of the development standards of YMC 15.31.040(B);
 3. Site plan elements;
 4. Development phasing;
 5. Public meeting summary (YMC 15.31.026);
 6. Performance standards and conditions addressing subsections (C)(1) through (5) of this section; and
 7. Criteria for determining major versus minor modifications. (Ord. 2008-46 § 1 (part), 2008).

15.31.026 Public meeting required prior to application submittal.

Prior to the formal filing of an application for an institutional overlay zone, the sponsoring institution or the city/county, whichever initiated the establishment of the institutional overlay zone, shall hold at least two public meetings to discuss the proposal and identify concerns of the affected area residents and property owners. The applicant shall provide written notification to property owners of record within five hundred feet of the subject property at least fourteen days prior to the holding of the public meetings. The master development plan proposal

shall document and reflect the various concerns raised through this preapplication, public input process. (Ord. 2008-46 § 1 (part), 2008).

15.31.030 Review process.

The institutional overlay zone and master development plan shall be reviewed using the review process described in YMC 15.23.030, and as further specified herein. Upon filing of a valid rezone application and completion of the required environmental review process, the planning department shall forward the rezone application, together with its recommendation, to the hearing examiner to conduct a public hearing and review in conformity with YMC 15.23.030. Prior to said hearing, a recommendation will be obtained from the city planning commission. The decision of the hearing examiner shall be in the form of a written recommendation to the legislative body pursuant to YMC 15.23.030(E). (Ord. 2010-22 § 9, 2010: Ord. 2008-46 § 1 (part), 2008).

15.31.040 Development standards.

A. Development standards for uses within an institutional overlay zone may differ from those of the underlying zone when approved as part of the master development plan. Standards which may supersede those of the underlying zone include the following:

1. Maximum gross floor area of development;
2. Maximum building height;
3. Minimum building setbacks;
4. Maximum lot coverage;
5. Minimum and maximum off-street parking;
6. Landscaping;
7. Signage;
8. Exterior lighting, shadows, and glare reduction; and
9. Other standards determined by the city/county to be necessary to ensure land use compatibility with other uses in the surrounding area.

B. The legislative body shall consider the following in determining the standards for a particular institutional overlay zone in a specific location:

1. The institution's compatibility with surrounding uses, especially related to:
 - a. Public safety;
 - b. Site access, on-site vehicular and pedestrian circulation, and on- and off-street parking;
 - c. Landscaping and buffering of buildings, parking, loading and storage areas;
 - d. Light and shadow impacts;
 - e. Potential environmental impacts, such as noise, vibration, smoke, dust, odors, light/glare, or other undesirable impacts;
 - f. Number, size, and location of signage; and
 - g. The character of the neighboring properties compared to the adjacent institutional uses and activities;
2. The unique characteristics of the proposed use(s);

3. The unique characteristics of the subject property;
4. The arrangement of buildings and open spaces as they relate to each other within the institutional campus;
5. Visual impacts of the institution on the surrounding area;
6. Public improvements proposed in connection with the institution's master plan; and
7. The public benefit provided by the institution. (Ord. 2008-46 § 1 (part), 2008).

15.31.050 Effect of approval.

A. The approval by the legislative body of a master development plan for an institutional overlay shall guide future development within the institutional overlay. The approved master development plan and development agreement shall remain binding upon the sponsoring institution and the appropriate jurisdiction. Approvals of building permits and zoning ~~certificates~~ decisions shall be as required for Type (1) permits provided the proposed improvement conforms to the master development plan as approved.

B. Any city, county, state, federal, or other regulation or standard not specifically superseded by the adopted master plan and development agreement remains in full force and effect. Any use of land for purposes other than are specifically approved as part of the adopted master plan and development agreement shall be subject to all requirements of the underlying land use zone as designated on the official zoning map. (Ord. 2008-46 § 1 (part), 2008).

15.31.060 Subsequent actions and project applications under an approved master plan—Amendments to master plan.

Implementation of the master development plan shall be reviewed through the Type (1) review process. Modifications to the adopted master development plan and/or development agreement may be requested from time to time. Minor revisions will undergo Type (2) review. Major modifications will undergo Type (3) review. Specific criteria for determining major versus minor modifications shall be incorporated into the final zoning regulation and development agreement governing the institution's master plan. The following criteria are established to assist this determination:

A. Type (1) Review Projects or Actions. For future projects or actions in compliance with an approved master development plan and development agreement, the Type (1) review process shall be applied.

B. Type (2) Review Projects or Actions. The following projects or actions, representing projects or actions which do not substantially differ from projects contemplated by an approved master development plan, shall be subject to Type (2) review: an amendment to the master development plan defined in the development agreement as a minor modification (YMC 15.31.025(C)(7)).

C. Type (3) Review Projects or Actions. The following actions, not contemplated by an approved master development plan, shall be subject to Type (3) review: an amendment to the master development plan is defined in the development agreement as a major modification (YMC 15.31.025(C)(7)).

D. Type (1), (2), and (3) reviews shall be conducted consistent with the provisions of YMC Chapters 15.13, 15.14, and 15.15 respectively. For any changes falling outside the scope of such review, the procedures set forth in this chapter for original master development plan and development plan approval shall be followed. (Ord. 2008-46 § 1 (part), 2008).