

October 21, 2020

Mr. Joseph Calhoun
City of Yakima Planning Division
129 North 2nd Street
Yakima, WA 98901

RE: CITY OF YAKIMA PERIODIC SHORELINE MASTER PROGRAM UPDATE ANALYSIS

Dear Mr. Calhoun:

A Shoreline Master Program (SMP) is a body of policies and regulations mandated by the Shoreline Management Act (Revised Code of Washington 90.58) and guided by Shoreline Master Program Guidelines promulgated by the Washington Department of Ecology (Ecology) (Washington Administrative Codes [WAC] 173-26 and 173-27). SMPs are developed by local governments but are then jointly adopted and approved by the local government and Ecology.

SMPs only apply to shoreline jurisdiction. In the City of Yakima (City), shoreline jurisdiction currently includes the waters, uplands 200 feet from the waters, and associated wetlands, floodway, and some floodplains of the Yakima River, Naches River, Cowlitz Creek, Willow Lake, Lake Aspen, and Rotary Lake. Buchanan Lake will also be regulated as a shoreline of the state in the future when the Washington Department of Natural Resources Surface Mine Reclamation Permit lapses or is terminated or when the City receives a permit application for new development on or uses of Buchanan Lake.

The City completed a major update of its SMP in 2014 and approved a few amendments to the SMP in 2017 as part of the City's *We Are Yakima Comprehensive Plan 2040*. The City's SMP goals and policies are in Chapter 11 of the City's Comprehensive Plan, and the regulations are found in Yakima Municipal Code (YMC) Title 17, Shoreline Master Program Regulations. The City elected in 2014 to maintain separate versions of its critical areas regulations – one that applies outside of shoreline jurisdiction (Chapter 15.27 YMC) and one that applies inside shoreline jurisdiction (Chapter 17.09 YMC). The City is committed to consistency between the two critical areas regulations to the greatest extent practicable, but there are state-mandated differences in permitting processes between the two, and only the version effective in shoreline jurisdiction is subject to Ecology approval.

The City is now preparing to conduct what is anticipated to be a minor, “periodic” update of its SMP as required by Ecology. As noted in Ecology materials:

“Local governments must review amendments to the SMA [Shoreline Management Act] and Ecology rules that have occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance. Local governments must also review changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them.”

WAC 173-26-090(2)(b) establishes a deadline of June 30, 2021, for completion of local legislative action on periodic updates for Yakima County and the cities within it. Once the City takes action on any amendments to the SMP, the revised SMP and supporting documents must be transmitted to Ecology for final review and approval.

METHODS

This assessment focuses on compliance with the SMA and Growth Management Act (GMA) and internal consistency between the two versions of the City’s critical areas regulations.

To evaluate compliance, the following state agency checklists were completed:

- Ecology’s SMP Periodic Review Checklist (Appendix A)
- The Washington Department of Commerce’s Critical Areas Checklist (Appendix B).

Chapter 15.27 YMC and Chapter 17.09 YMC were also compared, and Chapter 17.09 was updated as needed to increase consistency. Finally, Chapter 11 of the City’s Comprehensive Plan was reviewed to identify if there were any changes needed to maintain consistency between the Comprehensive Plan and regulations.

It is anticipated that continued public input through Planning Commission meetings, City Council meetings, an open house, and other outreach may inform further refinements to staff code revisions.

RESULTS

SMP Periodic Review Checklist

The completed SMP Periodic Review Checklist (Appendix A) revealed several required changes and a longer list of recommended changes. The required changes are summarized below; see Appendix A for recommended changes.

- Per a 2017 change in the WAC, certain permit timelines are measured from the date of filing rather than the date of receipt.
- Per a 2017 change in the WAC, Ecology clarified the scope and process for conducting periodic reviews, including an optional process for conducting joint Ecology and City hearings and sharing the comment period. Adding a reference to the specific WAC provision incorporates those processes into the City's SMP.
- An outdated reference to Ecology's 2004 wetland rating system must be replaced with a reference to the more recent 2014 system.
- In 2018, Ecology updated its recommended wetland buffer width tables to have three options for each wetland category based on habitat points instead of four. The practical consequence is that more wetlands would have a smaller buffer width.
- A reference in the definition of the Shorelines Hearings Board should omit mention of the Board as the body that would hear the appeal of an SMP; in the City of Yakima, the Growth Management Hearing Board would hear those appeals.

Critical Areas Checklist/Critical Areas Consistency

The Critical Areas Review Checklist (Appendix B), which was developed by the Washington Department of Commerce for use in evaluating critical areas regulations under the GMA, was completed for both the SMP version in Chapter 17.09 YMC and the version that applies outside shoreline jurisdiction in Chapter 15.27 YMC. Chapter 15.27 YMC was last updated in 2017. In addition, Chapter 17.09 and Chapter 15.27 were compared to each other to identify substantive differences or inconsistencies between the codes. The following changes were identified during this review:

- As already identified above, Ecology updated its buffer width tables in 2018. As this change occurred following the critical areas update of Chapter 15.27 YMC in 2017, modifications to the buffer width tables should be made in both chapters.
- The critical aquifer recharge areas regulations in YMC 15.27.800 through -.802 were substantially updated in 2017. For consistency and compliance with latest science, these changes will be integrated into YMC 17.09.060.

- For consistency with Chapter 15.27 YMC, clarity, and compliance with latest science, the fish and wildlife habitat conservation area regulations in YMC 17.09.010 will be amended to add a requirement for discussion of federal, state, or local management recommendations for species and habitat in a critical areas report.
- For consistency with Chapter 15.27 YMC and compliance with latest science, the buffer for salmonid-bearing waters will be increased from 75 to 100 feet. The buffers for non-salmonid-bearing waters will also be modified to match Chapter 15.27 YMC.

Comprehensive Plan

No required or recommended changes to the Shoreline Element of the City's *We Are Yakima Comprehensive Plan 2040* were identified.

CONCLUSION

This periodic update of the City's SMP will result primarily in minor changes to improve internal consistency and consistency with Chapter 15.27 YMC, improve clarity and usability, update references, and correct typographical errors. The few required changes are largely related to process or an update to Ecology's science-based wetland buffers. Proposed changes to the SMP based on the checklists and other review are shown in underline/strikethrough format in Appendix C.

If you have any questions, please contact me at ajs@shanwil.com or at (206) 695-6685.

Sincerely,

SHANNON & WILSON

Amy Summe, PWS
Associate, Senior Biologist/Permit Specialist

AJS:KLW/ajs

Appendix A – SMP Periodic Review Checklist (October 2020)
Appendix B – Critical Areas Checklist (October 2020)
Appendix C – Proposed Changes to the SMP (October 2020)

Appendix A

SMP Periodic Review Checklist (October 2020)

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the SMA at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

At the **beginning of the periodic review**, use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

At the end of your review process, use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Prepared By	Jurisdiction	Date
Joseph Calhoun – City of Yakima Amy Summe – Shannon & Wilson Erika Rhett - BERK	City of Yakima	October 2020

Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	YMC 17.13.050 references the exemptions in the WAC without duplication in the SMP.	No change needed.
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)	Not applicable. There are no approved open water disposal sites in the City.	No change needed.
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	YMC 17.13.050 references the exemptions in the WAC without duplication in the SMP.	No change needed.
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	YMC 17.13.050 references the exemptions in the WAC without duplication in the SMP.	No change needed.
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	YMC 17.01.090 “Development” does not include this optional language. Even if not added to the SMP explicitly, it still applies.	Recommend adding “Dismantling or removing structures if there is no other associated development or re-development” to the list of activities in the definition that do not constitute development.
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	SMP 17.01.020.C states that all uses and development occurring within shoreline jurisdiction must comply with the SMP “[u]nless specifically exempted by statute...” These exemptions are referenced in SMC 17.13.050 and listed in WAC 173-27-040. However, the SMP does not include a section that specifically states	Recommend adding a new section 17.010.20.D that identifies activities excepted from local shoreline review and permits.

Row	Summary of change	Review	Action
		that there are activities that are not subject to local review or permits. The statutory exceptions apply whether or not they are stated in the SMP.	
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	The YMC still uses “date of receipt” in 17.13.090D, 17.13.100A, 17.13.120E, 17.13.130G.1	Change “date of receipt” to “date of filing” and update the meaning of “date of filing” in 17.13.100A to reflect the definition in WAC 173-27-130(6).
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	There is no forested in the City of Yakima or its UGA.	No action needed.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	YMC 17.01.020.B addresses application of the SMP to federal lands and appears consistent with the WAC.	If desired by the City, subsections 1 and 2 could be replaced by Ecology’s recommended language: “Area and uses in those areas under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW.”
g.	Ecology clarified “default” provisions for nonconforming uses and development .	Chapter 17.11 YMC contains the City’s customized provisions governing existing and nonconforming uses and development.	No change needed.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	17.13.140 generally addresses amendments and adopts provisions of the RCW and WAC that relate to amendments and review processes. However, WAC 173-26-090 is not specifically included to address the standard process for periodic reviews.	Add a reference to WAC 173-26-090 to specifically include the review process for periodic reviews.
i.	Ecology adopted a new rule creating an optional SMP	17.13.140 generally addresses amendments and adopts	Add a reference to WAC 173-26-090 to specifically include

Row	Summary of change	Review	Action
	amendment process that allows for a shared local/state public comment period.	provisions of the RCW and WAC that relate to amendments and review processes. However, WAC 173-26-104 is not specifically included to address the optional process for periodic reviews.	the optional review process for periodic reviews.
j.	Submittal to Ecology of proposed SMP amendments.	The YMC does not contain specific provisions enumerating the process for the submittal of proposed SMP amendments to Ecology. Instead it adopts by reference the appropriate sections of the WAC and RCW in YMC 17.13.140.	No action needed.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	YMC 17.13.050 references the exemptions in the WAC without duplication in the SMP.	No change needed.
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	The SMP contains wetland regulations in YMC 17.09.040. Sections -040.D.2 and E.1 require use of Ecology's latest wetlands rating system, although there is still a reference to the old system in YMC 17.09.010.Q.2.a. Subsequent amendments to Ecology's science-based buffer recommendations have been made that are not integrated into this section. Specifically, rather than dividing the potential wetland rating habitat scores into 4 groups which each have an assigned buffer, Ecology has subdivided the habitat scores into three groups and adjusted the corresponding buffer widths accordingly. See https://fortress.wa.gov/ecy/p	Update the old reference to Ecology's rating system that remains in YMC 17.09.010.Q.2.a. Amend Tables 27.6-1 (Wetland Buffer Requirements if Table 27.6-2 Is Implemented and Corridor Provided) and 27.6-3 (Wetland Buffer Requirements if Table 27.6-2 Is NOT Implemented and Corridor NOT Provided) in YMC 17.09.040.E.1.d. to match Ecology's science-based buffer recommendations.

Row	Summary of change	Review	Action
		ublications/parts/1606002part1.pdf . Other applicable parts of Ecology guidance have already been incorporated into these regulations.	
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	The SMP does not contain this provision.	Ecology recommends inclusion of language regarding WSDOT review. It could be added as a new section YMC 17.13.115 in the Administrative and Enforcement chapter.
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	YMC 17.07.110.D prohibits new floating residences and over-water residential structures. There are no existing structures.	No change needed.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	The SMP does not contain SMP appeal procedures. However, the SMP contains a definition of Shorelines Hearings Board, which includes hearing of SMP appeals as one of the duties of the board.	Omit reference to appeals of Ecology SMP approval as a duty of the Shorelines Hearings Board in the definition (YMC 17.01.090). Jurisdictions fully planning under the GMA would appeal an SMP approval to the Growth Management Hearings Board.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	YMC 17.09.010.Q.2.a requires wetland delineation using the approved federal wetland delineation manual and application regional supplements.	No change needed.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	Not applicable.	No change needed.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	YMC 17.07.110.D prohibits new floating residences and over-water residential structures. There are no existing structures.	No change needed.

Row	Summary of change	Review	Action
d.	The Legislature authorizing a new option to classify existing structures as conforming.	This option was implemented in YMC 17.11.040.	No change needed.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	Many of these clarifications are not applicable or relevant anymore or have been integrated into the SMP at the time of the comprehensive update in 2013.	No change needed.
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	YMC 17.07.120.H addresses potential for granting relief when a restoration project shifts the OHWM landward.	Recommend adding a reference to WAC 173-27-215 in addition to the existing reference to RCW 90.58.580.
b.	Ecology adopted a rule for certifying wetland mitigation banks.	Mitigation banking is addressed in YMC 17.09.010.P.14, and 17.09.040.F.4.a and -F.6	No change needed.
c.	The Legislature added moratoria authority and procedures to the SMA.	The SMP does not include moratoria procedures.	Adding specific moratoria authority is not required. The City could still do so as authorized by RCW 90.58.590 and WAC 173-27-085 if it needed to. If the City wanted to include it in the code, suggest adding a section to chapter 17.13 that incorporates the state law by reference.
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	The definition of floodway in YMC 17.01.090 presents both options which allows applicant to use either depending on the availability of FEMA floodway mapping and/or better local information.	No change needed.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	The list of shoreline waterbodies is in YMC 17.01.100. YMC 17.03.090.A incorporates the official Shoreline Jurisdiction and	No change needed.

Row	Summary of change	Review	Action
		Environment Designations Map by reference.	
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	YMC 17.13.050 references the exemptions in the WAC without duplication in the SMP.	No change needed.

Additional amendments

Modify this section, as needed, to reflect additional review issues and related amendments. The summary of change could be about Comprehensive Plan and Development regulations, changes to local circumstance, new information, or improved data.

Two example formats:

SMP section	Summary of change
17.09	Minor edits to improve consistency and clarity, and correct typographical errors
17.09.030.O.2	Updated the water type buffers to match the 2017 critical areas regulations update of YMC 15.27.510. The Type 2 buffer was increased from 75' to 100' at the time of the critical areas update based on Yakama Nation comment and to match Yakima County's Type 2 buffer (also updated in 2017). The Type 3 and Type 4 buffers were modified to match Yakima County's buffers.
17.09.060	Updated the entire critical aquifer recharge areas section for consistency with YMC 15.27.800 - .820.

Appendix B

Critical Areas Checklist (October 2020)



Department of Commerce

CRITICAL AREAS CHECKLIST

A Technical Assistance Tool From Growth Management Services – updated April 2019

Name of city or county: City of Yakima	
Staff contact, phone, and e-mail address: Joseph Calhoun, 509-575-6042, Joseph.Calhoun@YAKIMAWA.GOV	
<p>INSTRUCTIONS</p> <p>This checklist is intended to help local governments update their development regulations, pursuant to the schedule in RCW 36.70A.130(4) (updated in 2012). We strongly encourage but do not require jurisdictions to complete the checklist and return it to Growth Management Services (GMS), along with their updates. This checklist may be used by all jurisdictions, including those local governments planning for resource lands and critical areas only. For general information on update requirements, refer to Keeping your Comprehensive Plan and Development Regulations Current: A Guide to the Periodic Update Process under the Growth Management Act, August, 2016 and WAC 365-196-610 (updated in 2015).</p> <p>Bold items are a GMA requirement or may be related requirements of other state or federal laws.</p> <p>Commerce WAC provisions are advisory under Commerce’s statutory mandate to provide technical assistance, RCW 43.330.120 which states that the Department of Commerce “...<i>shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.</i>” <u>Underlined</u> items are links to Internet sites and may include best practices or other ideas to consider. If you have questions, call GMS at (360) 725-3066.</p> <p>Updates to Commerce WAC – Revisions to the Commerce WAC relating to critical areas have been provided in a table with dates of changes on the Growth Management Act Periodic Update web site. The table can be used with this checklist to determine what changes have been made since the last update of your critical areas regulations.</p> <p>How to fill out the checklist</p> <p>Using the current version of your critical areas regulations, fill out each item in the checklist. Select the check box or type in text fields, answering the following question:</p> <p>Is this item addressed in your current Critical Areas Ordinance (CAO)? If YES, fill in the form with citation(s) to where in the plan or code the item is addressed. We recommend using citations rather than page numbers because they stay the same regardless of how the document is printed. If you have questions about the requirement, follow the hyperlinks to the relevant statutory provision or rules. If you still have questions, visit the Commerce Growth Management Services Web page or contact one of the Commerce planners assigned to your region.</p>	<p>Contents</p> <p>Instructions.....1</p> <p>Overall Requirements.....2</p> <p>Wetlands.....3</p> <p>Critical Aquifer Recharge Areas.....4</p> <p>Frequently Flooded Areas.....5</p> <p>Geologically Hazardous Areas.....6</p> <p>Fish and Wildlife Habitat Conservation Areas.....7</p> <p>Designating and Protecting Waters of the State.....8</p> <p>Anadromous Fisheries.....8</p> <p>Reason Use Exceptions.....8</p> <p>Agricultural Activities.....9</p> <p>Forest Practices Regulations.....9</p> <p>Good Ideas.....9</p>

CRITICAL AREAS

Regulations protecting critical areas are required by **RCW 36.70A.060(2)** and **RCW 36.70A.172(1)**. [WAC 365-195-900](#) through 925 provide guidelines. Guidance can also be found in Commerce's *Critical Areas Handbook* (Updated June, 2018); the Minimum Guidelines [WAC 365-190-080 – 130](#); Best Available Science, [Chapter 365-195 WAC](#); and Procedural Criteria, [WAC 365-196-485](#) and [WAC 365-196-830](#), and on Growth Management's [Critical Areas](#) webpage.

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>OVERALL REQUIREMENTS</p> <p>The CAO includes best available science to clearly designate and protect all critical areas that might be found within the jurisdiction.</p> <p>1. Designation of Critical Areas</p> <p>RCW 36.70A.170(1)(d) required all counties and cities to designate critical areas. RCW 36.70A.170(2) requires that counties and cities consider the Commerce Minimum Guidelines pursuant to RCW 36.70A.050.</p> <p>RCW 36.70A.050 directed Commerce to adopt the Minimum Guidelines to classify critical areas. WAC 365-190-080 through 130 (updated in 2010) provide guidance on defining or “designating” each of the five critical areas.</p> <p>WAC 365-190-040 (updated in 2010) outlines the process to classify and designate natural resource lands and critical areas.</p> <p>2. Definition of Critical Areas</p> <p>RCW 36.70A.030 provides definitions for each type of critical area. Sections (5) regarding fish and wildlife habitat conservation areas; (9) regarding geologically hazardous areas; and (21) regarding wetlands were updated in 2010.</p> <p>WAC 365-190-030 (updated 2010) provides definitions in the Minimum Guidelines.</p> <p>3. Protection of Critical Areas</p> <p>RCW 36.70A.060 (2) required counties and cities to adopt development regulations that protect the critical areas required to be designated under RCW 36.70A.170.</p> <p>RCW 36.70A.172(1) requires the inclusion of best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.</p> <p>4. Inclusion of Best Available Science</p> <p>RCW 36.70A.172(1) requires inclusion of the best available science (BAS).</p> <p>Chapter 365-195 WAC outlines recommended criteria for determining which information is the BAS, for obtaining the BAS, for including BAS in policies and regulations, for addressing inadequate scientific information, and for demonstrating “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries.</p> <p>WAC 365-195-915 provides criteria for including BAS in the record.</p>	<ol style="list-style-type: none"> 1. Designation: YMC 17.09.010.B; YMC 15.27 Part One 2. Definitions: YMC 17.01.090; YMC 15.27.200 3. Protection: YMC 17.09.010-.060; YMC Ch. 15.27 multiple references 4. Best available science: YMC 17.09; YMC 15.27.150 <p>Was BAS documented in the record for the review and updates to the critical areas regulations?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text:</p> <p>YMC 17.09 is the critical areas regulations integrated into the SMP. These regulations were last updated in 2017, along with the City’s critical areas regulations in YMC 15.27 updated during the required Comprehensive Plan Update under GMA. The 2017 update included a BAS review. Only a few additional science-based updates are proposed in this periodic update of the SMP, primarily based on changes to Washington Department of Ecology recommended</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
	<p>wetland buffers. A number of other updates are also proposed to resolve minor inconsistencies within YMC 17.09 or to improve consistency with YMC 15.27. For example, YMC 17.09 had not included the stream buffer width update for Type 2 streams based on Yakama Nation input that was part of the update of YMC 15.27. The critical aquifer recharge area section of YMC 17.09 has also been updated to match YMC 15.27.</p> <p>Note: SMA uses the term “best available scientific and technical information” in lieu of “best available science.”</p>
<p>WETLANDS DEFINITION</p> <p>The definition of wetlands is consistent with RCW 36.70A.030(28) (updated in 2012).</p>	<p>Is the wetland definition consistent with RCW 36.70A.030(28)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: YMC 17.01.090; YMC 15.27.200</p>
<p>WETLANDS DELINEATION</p> <p>Wetlands are delineated using the 1987 Federal Wetland Delineation Manual and Regional Supplements in accordance with WAC 173-22-035 (updated in 2011).</p> <p>See Ecology’s Wetland Delineation page and WAC 365-190-090 (updated in 2010) for additional assistance.</p>	<p>Are wetlands delineated using the 1987 Federal Wetland Delineation Manual and Regional Supplements?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: YMC 17.09.040.B.1; YMC 15.27.601</p>
<p>WETLANDS PROTECTION</p> <p>Policies and regulations protect the functions and values of wetlands. RCW 36.70A.172(1) Counties and cities are encouraged to make their actions consistent</p>	<p>Do the regulations use a rating system to determine wetlands protection?</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>with the intent and goals of “protection of wetlands”, Executive Order 89-10 as it existed on September 1, 1990.</p> <p>WAC 365-190-090(3) recommends using a wetlands rating system that evaluates the existing wetland functions and values to determine what functions must be protected. Ecology updated its recommended wetlands rating systems effective January 2015. For information on the rating system, including the July 2018 adjustments to ranges for habitat scores, see:</p> <ul style="list-style-type: none"> • 2014 Updates to the Washington State Wetland Rating Systems • Washington State Wetland Rating System for Western Washington • Washington State Wetland Rating System for Eastern Washington <p>For other resources and guidance on protecting wetlands, go to Ecology’s Local Wetland Regulations: Growth Management Act technical assistance.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text YMC 17.09.040.D.2; YMC 15.27.603</p>
<p>CRITICAL AQUIFER RECHARGE AREAS</p> <p>Policies and regulations protect the functions and values of critical aquifer recharge areas. RCW 36.70A.172(1).</p> <p>Policies and regulations protect the quality and quantity of groundwater used for public water supplies. RCW 36.70A.070(1) and WAC 365-196-485(1)(d). (Required if groundwater is used for potable water.)</p> <p>The following references also relate to protection of groundwater resources:</p> <p>RCW 90.44 – Regulation of Public Groundwaters RCW 90.48 – Water Pollution Control (1971) RCW 90.54 – Water Resources Act of 1971 RCW 36.36.020 - Creation of aquifer protection area (1988) WAC 365-190-100 Critical Aquifer Recharge Areas (2010) WAC 173-100 Groundwater Management Areas and Programs (1988) WAC 173-200 Water Quality Standards for Groundwaters of the State of Washington (1990) WAC 365-196-735 Consideration of state and regional planning provisions (list) (2010)</p> <p>The Critical Aquifer Recharge Areas Guidance Document (2005) provides information on protecting functions and values of critical aquifer recharge areas, best available science, how to work with state and local regulations and adaptive management.</p> <p>Also, consider the following:</p>	<p>If groundwater is used for potable water, do regulations protect the quality and quantity of ground water?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in text: YMC 17.09.060; YMC 15.27.800</p> <p>Are the critical aquifer recharge regulations consistent with current mapping of these critical areas?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in text: CARA mapping and regulations were updated together in 2017 in YMC 15.27.800-820. This update is now incorporated in YMC 17.09.060. The mapping followed Washington Department of Ecology</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<ul style="list-style-type: none"> Prohibiting or strictly regulating hazardous uses in critical aquifer recharge areas (CARAs) and designating and protecting wellhead areas. See Ecology's guidance on Critical Aquifer Recharge Areas. Limiting impervious surfaces to reduce stormwater runoff, as required under Phase I and II municipal stormwater permits. Ecology's Stormwater Manual for Western Washington (updated in 2012) includes low impact development (LID) related definitions, requirements, and an LID performance standard. See Stormwater Management and Design Manuals on Ecology's web page. See Stormwater Drainage and Water Quality on page 7 of this checklist for additional LID resources. 	<p>"Critical Aquifer Recharge Areas Guidance Document" (Morgan, 2005).</p>
<p>FREQUENTLY FLOODED AREAS</p> <p>Regulations protect the functions and values of frequently flooded areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1) WAC 365-196-830 provides: "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."</p> <p>WAC 365-190-110 (updated in 2010) directs counties and cities to consider the following when designating and classifying frequently flooded areas:</p> <ul style="list-style-type: none"> (a) Effects of flooding on human health and safety, and to public facilities and services; (b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs, including the provisions for urban growth areas in RCW 36.70A.110; (c) The future flow flood plain, defined as the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow at build out; (d) The potential effects of tsunamis, high tides with strong winds, sea level rise, and extreme weather events, including those potentially resulting from global climate change; (e) Greater surface runoff caused by increasing impervious surfaces. <p>Classification of and regulations for frequently flooded areas should not conflict with the Federal Emergency Management Agency (FEMA) requirements for the National Flood Insurance Program. See Ecology's Frequently Flooded area guidance and 44 CFR 60.</p> <p>Communities that are located on Puget Sound or the Strait of San Juan de Fuca, or have lakes, rivers or streams that directly or indirectly drain to those water bodies, are subject to the National Flood Insurance Program Biological Opinion (BiOp) for Puget Sound (https://www.fema.gov/media-library/assets/documents/30021). The biological opinion required changes to the implementation of the National Flood Insurance Program in order to meet the requirements of the Endangered Species</p>	<p>Are frequently flooded areas designated and regulated using FEMA and Ecology guidance?</p> <p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A </p> <p>Location in Text: YMC 17.09.020; YMC 15.27 Part 4</p> <p>Are you utilizing your CAO as part of a programmatic response to the BiOp?</p> <p> <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A </p> <p>Location in Text:</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>Act (ESA) in the Puget Sound watershed. FEMA Region X has developed an implementation plan that allows communities to apply the performance standards contained in the Biological Opinion by implementing:</p> <p>1) a model ordinance (https://www.fema.gov/media-library/assets/documents/85339); 2) a programmatic Checklist (https://www.fema.gov/media-library/assets/documents/85336); or 3) on a permit by permit basis (https://www.fema.gov/media-library/assets/documents/85343) as long as it can be demonstrated that there is no adverse effect to listed species. Communities have the <u>option</u> of utilizing their CAOs as part of a programmatic response to address the requirements of the biological opinion. FEMA must approve a community's biological opinion compliance strategy.</p> <p>Additional resources:</p> <p>RCW 86.12 Flood Control by Counties</p> <p>RCW 86.16 Floodplain Management</p> <p>RCW 86.26 State Participation in Flood Control Maintenance</p> <p>RCW 86.16.041 Floodplain Management Ordinance and Amendments</p> <p>WAC 173-158-070 Requirements for construction in Special Flood Hazard Areas</p>	<p>The BiOp applies to Puget Sound Watershed only.</p>
<p>DEFINITION OF GEOLOGICALLY HAZARDOUS AREAS</p> <p>The definition of geologically hazardous areas is consistent with RCW 36.70A.030(12) (updated 2012).</p> <p>"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.</p>	<p>Is the geologically hazardous areas definition consistent with RCW 36.70A.030(12)?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p> <p>Location in Text:</p> <p>YMC 17.09.050.A.1;</p> <p>Definition needs to be added to YMC 15.27.200</p> <p>Note: the RCW definition names specific development types – the City's code refers to "incompatible" development more generally.</p>
<p>PROTECTION OF GEOLOGICALLY HAZARDOUS AREAS</p> <p>Regulations protect the functions and values of geologically hazardous areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1) WAC 365-196-830 (2010) provides:" "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."</p>	

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>Geologically hazardous areas are designated, and their use is regulated or limited consistent with public health and safety concerns. RCW 36.70A.030(10) provides a definition (updated in 2012) and WAC 365-190-120 describes the different types of hazardous areas (2010):</p> <ul style="list-style-type: none"> • Geologically hazardous areas include: <ul style="list-style-type: none"> • seismic hazards • tsunami hazards • landslide hazards, • areas prone to erosion hazards • volcanic hazards • channel migration zones • areas subject to differential settlement from coal mines or other subterranean voids. • Critical facilities, such as hospitals and emergency response centers, hazardous materials storage, etc. should be restricted in hazard zones. <p>The Department of Natural Resource's Geologic Hazards and the Environment website includes information on earthquakes and faults, landslides, volcanoes and lahars, tsunamis, hazardous minerals, emergency preparedness and includes geologic hazard maps.</p>	<p>Are uses in geologically hazardous areas designated and regulated or limited consistent with public health and safety?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: All of YMC 17.09.050, particularly B, C and E; YMC 15.27 Part 7</p>
<p>DEFINITION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS</p> <p>The definition of fish and wildlife habitat conservation areas is consistent with RCW 36.70A.030(6) (updated 2012) and WAC 365-190-030 (updated in 2015). The definition of fish and wildlife habitat conservation areas was amended to state that they do not include: <i>“such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company”.</i></p>	<p>Is the FWHCA definition consistent with RCW 36.70A.030(6)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: YMC 17.01.090; YMC 15.27.200</p>
<p>PROTECTION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS</p> <p>Policies and regulations protect the functions and values of fish and wildlife habitat conservation areas. RCW 36.70A.172(1) and RCW 36.70A.030(5) (updated 2012).</p> <p>WAC 365-190-130(4) encourages to local jurisdictions consult WDFW's Priority Habitat and Species web site. Recent updates include:</p>	<p>Have you reviewed your regulations regarding any applicable changes in management recommendations for priority habitats and species?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<ul style="list-style-type: none"> • Priority Habitat and Species maps (updated daily) • Priority Habitats and Species List (updated June 2016) <ul style="list-style-type: none"> • Mazama Pocket Gopher (2011, 2016) • Great Blue Heron (2012) • Western Gray Squirrel (2010) • Water Crossing Design Guidelines (2013) • Stream Habitat Restoration Guidelines (2012) • Shrub-Steppe (2011) • Land Use Planning for Salmon, Steelhead and Trout (2011) • Landscape Planning for Washington's Wildlife (2009) • Aquatic Habitat Guidelines (2010, 2010, 2014) • Riparian Management recommendations (1997) • Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications (2018) <p>Areas “with a primary association with listed species” should be considered per WAC 365-190-130(2)(a). Recent uplistings and delistings are:</p> <ul style="list-style-type: none"> • Uplisting of marbled murrelet to State Endangered – February 4, 2017 • Uplisting of Canada lynx to State Endangered – February 4, 2017 • Peregrine falcon delisted from State Sensitive – February 4, 2017 <ul style="list-style-type: none"> a. The peregrine will remain classified as “protected wildlife” under state law (WAC 220-200-100) and will continue to be protected under the federal Migratory Bird Treaty Act. • Bald Eagle delisted from State Sensitive - February 4, 2017 <ul style="list-style-type: none"> a. 2011: Downlisted from State Threatened to Sensitive (this ended the requirement to develop Bald Eagle Protection Plans per WAC 220-610-100—a change which many CAOs still don’t reflect). b. 2007: Delisted from federal Threatened (but still covered by the federal Bald and Golden Eagle Protection Act) <p>Also see the Puget Sound Partnership’s Salmon Recovery web site for WRIA Plans in Puget Sound.</p>	<p>YMC 17.09.010.Q has been amended to add a requirement for discussion of federal, state or local management recommendations for species and habitat in FWHCA reports. This was already included in YMC 15.27. YMC 17.09.030.D.3 already required use of those management recommendations for design of projects in or near FHWCA's.</p> <p>Have you reviewed your regulations regarding any changes in species listings?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p> <p>Location in Text</p> <p>The City’s code does not identify species by name so this is not necessary; species are referenced more broadly based on their local, state or federal status.</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>DESIGNATING AND PROTECTING WATERS OF THE STATE</p> <p>RCW 90.48.020 defines waters of the state, which include all surface waters, salt waters, groundwater and all other water courses in Washington. WAC 365-190-130(2) (updated in 2010) recommends designating all waters of the state as fish and wildlife habitat conservation areas (FWHAs).</p> <p>Stream types are classified in WAC 222-16-030 (updated in 2006) with field verification, or an alternate system that considers factors listed in WAC 365-190-130(4)(f)(iii). See http://www.dnr.wa.gov/forest-practices-water-typing to use Washington State Department of Natural Resources (DNR)'s stream typing system.</p> <p>Establish buffers to maintain no net loss of riparian ecosystem functions.</p> <p>Designate areas that risk contaminating or harming shoreline resources including tidelands and bedland suitable for shellfish harvest, kelp and eelgrass beds and forage fish spawning areas.</p>	<p>Do you designate waters of the state as FWHCAs?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text YMC 17.09.030.C.4; YMC 15.27.502</p> <p>Do your regulations protect waters of the state?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: Entire section YMC 17.09.030, particularly H through P.; YMC 15.27 Part 5</p>
<p>ANADROMOUS FISHERIES</p> <p>Policies and regulations for protecting critical areas give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1) is the requirement and WAC 365-195-925 (updated in 2000) lists criteria involved. This requirement applies to all five types of critical areas.</p> <p>WAC 365-190-130(4)(i) recommends sources and methods for protecting fish and wildlife habitat conservation areas, including salmonid habitat. Counties and cities may use information prepared by the United States Department of the Interior Fish and Wildlife Service, National Marine Fisheries Service, the Washington State Department of Fish and Wildlife, the State Recreation and Conservation Office, and the Puget Sound Partnership to designate, protect and restore salmonid habitat. Counties and cities should consider recommendations found in the regional and watershed specific salmon recovery plans (see the Governor's Salmon Recovery Office webpage and the Puget Sound Partnership's Salmon Recovery webpage).</p> <p>Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery (October 2009) is an excellent resource. The Washington State Recreation and Conservation Office (RCO) website includes information on salmon recovery efforts.</p>	<p>Do your regulations give special consideration to anadromous fisheries?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: Numerous regulations in Titles 15 17 and more specifically in YMC 17.09.030 and 15.27.150 directly or indirectly give special consideration to anadromous fish and their habitat. The increase of the buffer for Type 2 waters (salmonid-bearing) from 75 to 100 feet provides special consideration to anadromous fish.</p>
<p>REASONABLE USE EXCEPTIONS</p>	<p>Do you have reasonable use provisions?</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>The Critical Areas Ordinance (CAO) allows for “reasonable use” if the CAO would otherwise deny all reasonable use of property. Reasonable use provisions should limit intrusions into critical areas to the greatest extent possible. RCW 36.70A.370 (1991). Common exemptions include emergencies, remodels that do not further extend into critical areas, surveying, walking, and development that has already been completed with critical areas review under a previous permit. See Critical Areas Handbook, Chapter 3: Structuring Critical Areas Regulations, p.9 (Updated June, 2018).</p>	<p><input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Location in Text: YMC 15.27.318</p> <p>Not allowed in an SMP. There are shoreline variance provisions in YMC 17.13.080.</p>
<p>AGRICULTURAL ACTIVITIES NOT UNDER VSP (COUNTIES ONLY)</p> <p>Critical areas regulations as they specifically apply to agricultural activities in counties or watersheds not participating in the Voluntary Stewardship Program (VSP) have been reviewed, and if needed, revised pursuant to RCW 36.70A.130. RCW 36.70A.710(6) "Agricultural activities" means all agricultural uses and practices as defined in RCW 90.58.065.</p> <p>VSP Counties After watershed work plan approval, VSP counties are encouraged to reference and describe their participation in the program within their critical areas development regulations (WAC 365-196-832). See Critical Areas Handbook, Chapter 5: Protecting Critical Areas in Natural Resource Lands (Updated June, 2018).</p>	<p>Did you review your regulations as they apply to agricultural activities?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>Location in Text: Doesn't apply in City of Yakima.</p>
<p>FOREST PRACTICES APPLICATION REGULATIONS</p> <p><i>If applicable, regulations for forest practices have been adopted: RCW 36.70A.570</i> (adopted in 2007).</p> <p>RCW 76.09.240, amended in 2011, requires many counties over 100,000 in population, and the cities and towns within those counties to adopt regulations for forest practices. These are often included in clearing and grading ordinances.</p>	<p>Have you adopted forest practices regulations?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>Location in Text: The City of Yakima does not have forestry.</p>
<p>GOOD IDEAS</p> <p>Non-regulatory measures to protect or enhance functions and values of critical areas may be used to complement regulatory methods. These may include:</p> <ul style="list-style-type: none"> • public education • stewardship programs • pursuing grant opportunities • water conservation • joint planning with other jurisdictions and non-profit organizations • stream and wetland restoration activities • transfer of development rights 	<p>Are you using non-regulatory measures to protect critical areas?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text: Non-regulatory measures are not referenced in the regulations. The City requires pre-application conferences when critical areas are present to</p>

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>No net loss of critical area functions and values is a recommended approach for development regulations in WAC 365-196-830(4). If development regulations allow harm to critical areas, they should require compensatory mitigation of the harm.</p> <p>Monitoring and adaptive management is encouraged in WAC 365-195-905(6) to improve implementation of your regulations. See Commerce’s Monitoring chapter in the updated Critical Areas Handbook (June 2018).</p>	<p>educate potential applicants on process. The City frequently interacts with Yakima County, the Departments of Ecology and Fish and Wildlife, and the Yakama Nation on projects that impact the area as a whole.</p> <p>Do your regulations address no net loss and require compensatory mitigation?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text: The entire SMP, Title 17, has a no net loss of ecological function standard and requires compensatory mitigation. See YMC 17.05.020 (Environmental Protection); YMC 15.27.130</p> <p>Do you have a monitoring and adaptive management program for your CAO?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Location in Text:</p>

Appendix C

Proposed Changes to the SMP (October 2020)

Title 17

SHORELINE MASTER PROGRAM REGULATIONS

Chapters:

- 17.01 Purpose and General Provisions**
- 17.03 Shoreline Environment Designations**
- 17.05 General Regulations**
- 17.07 Use-Specific and Modification Regulations**
- 17.09 Critical Areas in Shoreline Jurisdiction**
- 17.11 Existing Uses, Structures and Lots**
- 17.13 Administration and Enforcement**
- Appendix [BA](#): Designated Type 2 Stream Corridors**

Chapter 17.01

PURPOSE AND GENERAL PROVISIONS

Sections:

- 17.01.010 Authority.
- 17.01.020 Applicability.
- 17.01.030 Findings.
- 17.01.040 Purpose.
- 17.01.050 Relationship to other codes, ordinances and plans.
- 17.01.060 Liberal construction.
- 17.01.070 Severability.
- 17.01.080 Effective date.
- 17.01.090 Definitions.
- 17.01.100 Shoreline jurisdiction.

17.01.010 Authority.

A. Title 17 of the Yakima Municipal Code is established pursuant to Chapter 90.58 RCW (Shoreline Management Act), Chapter 173-26 WAC (State master program approval/amendment procedures and master program guidelines), and Chapter 173-27 WAC (Shoreline management permit and enforcement procedures). This title shall be known as the “shoreline master program regulations.”

B. The shoreline master program regulations shall, for the purposes of RCW 36.70A.480 (GMA and Shorelines of the State), be considered a set of use regulations applying only to shoreline areas as specified in Chapter 90.58 RCW (SMA) and Chapter 173-26 WAC (State master program approval/amendment procedures and master program guidelines). These regulations are intended to be substantive legal rules and procedures used to implement the goals and policies of the master program (these goals and policies are contained in the City of Yakima Comprehensive Plan, Chapter 10, Section 3—General Shoreline Planning Sub-element). These regulations shall be applied and interpreted in a manner consistent with the remainder of the master program or the Act. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.020 Applicability.

A. The provisions of this title shall apply to any new development, construction or use within the incorporated portion of the city of Yakima. However, this title does not apply to the situations below:

1. Interior building improvements that do not change the use or occupancy are not subject to this title;
2. Exterior structure maintenance activities, including painting and roofing, as long as such activities do not expand the existing footprint of the structure or impervious area;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding;
4. Maintenance of the following existing facilities that do not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections;
5. Changing agricultural crops within an existing farming operation is not considered new development, construction or use. SMP regulations do apply to the following: (a) new agricultural activities on land not meeting the definition of agricultural land, (b) conversion of agricultural lands to other uses, and (c) other development on agricultural land that does not meet the definition of agricultural activities (e.g., processing plants); and
6. 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 are not subject to this title, and including temporary signs (election, sale, rent, etc.).

- B. The following subsections guide the determination of applicability of SMP regulations on federal lands:
1. Federal development on federally owned land is not subject to this SMP nor required to obtain a shoreline permit unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership;
 2. Federal development on a federally owned lease is not subject to this SMP nor required to obtain a shoreline permit unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership as long as the development is consistent with the purpose of the lease;
 3. Development on federally owned land under a federal lease or easement for a nonfederal activity is subject to this SMP and must obtain a shoreline permit; for example, the SMP applies to private activities on federal land such as leases where the private citizen owns the structure but the federal government owns the land;
 4. Nonfederal development or use on federally owned land is subject to this SMP and must obtain a shoreline permit; and
 5. Development on nonfederal land is subject to this SMP and must obtain a shoreline permit, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership unless the state by statute has ceded all regulatory authority over the federal ownership.

C. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act and this master program whether or not a permit is required. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

D. Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

17.01.030 Findings.

- A. The Yakima River Greenway consists of extensive trails along the Yakima River and Naches River providing regional shoreline public access that draws significant numbers of persons.
- B. All jurisdictional lakes, or predesignated lakes associated with mining, are manmade, highly altered, and separated by levees and highways from the river courses.
- C. Willow Lake and Lake Aspen are owned by homeowners' associations, and Lake Aspen's residential community is governed by covenants, conditions, and restrictions.

- D. There is relatively limited development potential on lands in the city limits due to the historic urban developed character, and limited development potential in the city and UGA where there are channel migration zones, floodways, and concentrations of critical areas.
- E. There are several essential public facilities in shoreline jurisdiction such as highways of statewide significance and the city's wastewater treatment plant. Another significant public use includes a state park providing active and passive recreation.
- F. The CMZ and floodway areas are largely in public ownership and are managed for flood hazard protection, water processes, and habitat value.
- G. SMP environments and regulations recognize the current and future preferred uses, altered and natural character, and shoreline ecological functions.
- H. The current shoreline conditions, anticipated development, and proposed SMP use and environmental regulations are demonstrated in the CIA Addendum to result in no net loss of shoreline ecological function. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.040 Purpose.

The purpose of this title is to establish a single, uniform system of procedures and standards to be applied to development within shoreline jurisdiction of the city of Yakima. The SMP regulations are intended to carry out the responsibilities imposed on the city of Yakima by the Shoreline Management Act (Chapter 90.58 RCW) and its Administrative Rules (Chapters 173-18, 173-20, 173-22, 173-26 and 173-27 WAC) insofar as regulations can, and the adoption of these regulations does not remove other responsibilities imposed by the Act. The purposes of the shoreline master program regulations are to:

- A. Promote reasonable and appropriate use of the shorelines that will protect the public and private interest;
- B. Protect against adverse effects to the public health, the land, its vegetation and wildlife and the waters and their aquatic life within the city of Yakima;
- C. Protect public rights of navigation;
- D. Recognize and protect private property rights consistent with public interest;
- E. Promote a high quality of environment along the shorelines;
- F. Preserve and protect fragile natural resources and culturally significant features;
- G. Increase public access to publicly owned areas of the shorelines where increased use levels are desirable;
- H. Protect public and private properties from adverse effects of improper development in hazardous shorelines areas;
- I. Recognize and protect the statewide interest;
- J. Give preference to uses that result in long-term over short-term benefits;
- K. Provide for no net loss of ecological functions cumulatively from both individual permitted development and individual exempt development; and
- L. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.050 Relationship to other codes, ordinances and plans.

- A. All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction. At the time of application or initial inquiry, the shoreline administrator shall inform the applicant/proponent of other local laws and rules that may be applicable to the project. The responsibility for determining applicable federal, state or special

district statutes and regulations and complying with the same rests with the applicant/proponent or responsible person carrying out the activity, use, or development in question.

B. This SMP includes critical areas regulations applicable only in the shoreline jurisdiction, and shall control within shoreline jurisdiction over other city critical area regulations adopted pursuant to the Growth Management Act.

C. Other rules and regulations, including but not limited to the city of Yakima development regulations addressing subdivision, zoning, building and construction shall remain in full force and effect as they apply to a designated shoreline.

D. Wherever the requirements of this title conflict with the requirements of city rules or regulations, the most restrictive standards shall govern. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.060 Liberal construction.

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this SMP shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which they were enacted. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.070 Severability.

If any provision of the ordinance codified in this title, or its application to any person or legal entity or circumstances is held to be invalid, the remainder of said ordinance or the application of the provision to other persons or legal entities or circumstances shall not be affected. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.080 Effective date.

This SMP and all amendments thereto shall become effective fourteen days from the date of the Washington Department of Ecology's written notice of final approval. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.090 Definitions.

Whenever the words and terms set forth in this section appear in this title, they shall be given the meaning attributed to them by this section. Definitions established by RCW 90.58.030 and WAC Title 173 have been incorporated herein and should these definitions in the RCW or WAC be amended, the most current RCW or WAC definition shall apply. Except where specifically defined in this section, the RCW or the WAC, all words used in this shoreline master program shall carry their customary meanings.

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.

"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.

"Accessory" means any use or development incidental to and subordinate to a primary use of a shoreline use or development. See also "Appurtenance, residential."

"Act" means the Washington State Shoreline Management Act, Chapter 90.58 RCW.

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

"Adoption by rule" means an official action by the Department of Ecology to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, Chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.

"Advanced mitigation" is a form of permittee-responsible mitigation constructed in advance of a permitted impact. An advance mitigation site needs to be planned, designed, and constructed before a project can use any mitigation

credit. Advance mitigation can be proposed by any applicant, but the advance compensatory mitigation credits generated by a mitigation effort in advance of impacts can only be used by that same applicant.

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

“Agricultural equipment” and “agricultural facilities” includes, but is not limited to:

- A. The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities, including but not limited to pumps, pipes, tapes, canals, ditches, and drains;
- B. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
- C. Farm residences and associated equipment, lands, and facilities; and
- D. Roadside stands and on-farm markets for marketing fruit or vegetables.

“Agricultural land” means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

“Agricultural products” includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products, including but not limited to meat, upland finfish, poultry and poultry products, and dairy products.

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

“Amendment” means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

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

“Approval” means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the Department of Ecology for review and official action pursuant to this chapter; or an official action by the Department of Ecology to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

“Appurtenance, residential” is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

“Aquaculture” means the culture and/or farming of fish, shellfish, or other aquatic plants and animals. When dependent on the use of the water area and when consistent with control of pollution and prevention of damage to the environment, aquaculture is a preferred use of the water area. Commercial aquaculture is conducted to produce products for market with the objective of earning a profit. Noncommercial aquaculture is conducted for the benefit of native fish recovery, education and interpretation, or other public benefit or use.

“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.

“Barb” is a structure used primarily in streams. It is a low relief projection from a bank, angled upstream, to redirect flow away from the bank towards the center of the channel. As opposed to groins or jetties, barbs are not barrier types of structures; they function by redirecting flows that pass over the top of the structure.

“Base flood” for purposes of administering YMC 17.09.020 means the flood having a one percent chance of being equaled or exceeded in any given year. (Ref. IBC 1612.2.)

“Base flood elevation” for purposes of administering YMC 17.09.020 means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). (Ref. IBC 1612.2.)

“Basement” for purposes of administering YMC 17.09.020 means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 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 has been altered by man.

“Bedrock” means in-place solid rock.

“Berm” means a mound 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 aquatic and terrestrial wildlife. Bioengineered or biotechnical bank protection designs may incorporate limited use of armored toes and wood structural elements.

“Boating facilities” means developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multifamily units, public piers, and community or public boat launch facilities. Docks serving four or fewer single-family residences are not boating facilities.

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

“Buffer averaging” means the regulatory alteration of the dimensions of a buffer that allows for increases and decreases in the buffer in discrete areas; provided, that the net area of buffer remains the same.

“Building official” means the manager of the offices of code administration or designee.

“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.

“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.

“Channel migration zone (CMZ)” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

“Classification” means the definition of 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 site.

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

“Comprehensive master program update” means a master program that fully achieves the procedural and substantive requirements of the Department of Ecology’s Shoreline Master Program Guidelines effective January 17, 2004, as now or hereafter amended.

“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.

“Conditional use” means a use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program.

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

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

“Critical areas” as defined under Chapter 36.70A RCW includes the following areas and ecosystems:

- A. Wetlands;
- B. Areas with a critical recharging effect on aquifers used for potable waters;
- C. Fish and wildlife habitat conservation areas;
- D. Frequently flooded areas; and
- E. Geologically hazardous areas.

“Department” means the city of Yakima community development department.

“Designated” means formal legislative action to identify and describe a critical area.

“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. See also “Substantial development.” Development does not include the following activities:

- A. Interior building improvements that do not change the use or occupancy;
- B. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
- C. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
- D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.

E. Dismantling or removing structures if there is no other associated development or re-development.

“Development regulations” means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

“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.

“Document of record” means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

“Dredging” means removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are “accessory utilities” and shall be considered a part of the primary use); the construction or modification of essential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before zoning, shorelines, or critical areas permits were required for such operations. Dredging, as regulated in this SMP under YMC 17.07.050, is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

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

“Ecological functions” or “shoreline functions” means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

“Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

“Enhance” means to strengthen any of the basic functional properties listed in Chapter 17.09 YMC 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 or lake corridor.

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

“Erosion” means the wearing away of the earth’s surface as a result of the movement of wind, water, or ice.

“Events and temporary uses” means a social or community occasion or activity lasting for a limited time. Events and temporary uses within permitted facilities or legally nonconforming facilities that are designed for such uses are not included in this definition, as long as they do not materially interfere with the normal public use of the water or shorelines of the state.

“Excavation” means the mechanical removal of earth material.

“Exempt” developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a shoreline substantial development permit, but which must otherwise comply with applicable provisions of the Act and the local master program.

“Fair market value” of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

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

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

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

“Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. The physical structure of a bank stabilization structure shall not be considered fill. However, fill placed behind the structure is considered fill. Stream bed manipulation for irrigation diversions or restoration shall not be considered fill.

“Fish and wildlife habitat conservation” means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability.

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

“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 title.

“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.

“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.

“Flood-proofing” for purposes of administering this title means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to lands, water and sanitary facilities, structures and contents of buildings.

“Floodplain” is synonymous with the one-hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

“Floodway” means the area, as identified in a master program, that either:

- A. Has been established in Federal Emergency Management Agency Flood Insurance Rate Maps or floodway maps; or
- B. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which floodwaters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

“Floodway fringe” for purposes of administering this title 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.

“Forest land” means land primarily devoted to forest practices activities.

“Forest practices” means activities conducted under federal forest practices approval or under a forest practices permit reviewed and approved by the Washington Department of Natural Resources pertaining to the management of forest land, including growing, managing, harvesting, and interim storage of merchantable timber for commercial value, as well as incidental activities reviewed under federal or state approval, such as road construction and maintenance (including bridges) and mining activities.

“Geotechnical report” or “geotechnical analysis” means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform

to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

“Grade” means the vertical location of the ground surface. “Natural grade” is the grade as it exists or may have existed in its original undisturbed condition. “Existing grade” is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification. “Rough grade” is a stage where grade conforms approximately to an approved plan. “Finish grade” is the final grade of the site which conforms to an approved plan. “Average grade level” is the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

“Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

“Groin” means a barrier type of structure that extends from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also “Barb” and “Weir.”

“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.

“Guidelines” means those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

“Habitats of local importance” are designated as fish and wildlife habitat conservation areas based on a finding by the city that they are locally important.

“Hard structural shoreline stabilization” means shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, riprap, and similar structures.

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

“Height” is measured from average grade level to the highest point of a structure; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the SMP specifically requires that such appurtenances be included; provided further, that temporary construction equipment is excluded in this calculation.

“Hydraulic dredging” is a minimally invasive dredging technique that utilizes suction to vacuum up sediments and other lake or riverbed material.

“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.

“In-water structures” are structures placed by humans within a stream, river or lake waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-water structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose. Barbs, jetties, groins and weirs are all examples of in-water structures.

“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. The groundwater association generally produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

“Lake or pond” means an inland body of standing water.

“Limited master program amendment” means a master program amendment that addresses specific procedural and/or substantive topics and which is not intended to meet the complete requirements of a comprehensive master program update.

“Lowest floor” for purposes of administering YMC 17.09.020 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 title.

“Maintenance, normal” means those usual acts to prevent a decline, lapse, or cessation from a legally established condition. See “Repair, normal.”

“Manufactured home” means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes.

“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 YMC Title 15.

“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.

“May” means the action is acceptable, provided it conforms to the provisions of this chapter.

“Minerals” means 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.

“Must” means a mandate; the action is required.

“Native” means indigenous to or originating naturally within Yakima County.

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

“Natural or existing topography” means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

“New construction,” for purposes of administering YMC 17.09.020, 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 YMC 17.09.020 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 YMC 17.09.020 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.

“Nonwater-oriented uses” means those uses that are not water-dependent, water-related, or water-enjoyment.

“Ordinary high water mark” (OHWM) means that mark on lakes and streams which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line is the elevation of the mean annual flood.

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

“Permit” means any substantial development, variance, conditional use permit, or revision authorized under Chapter 90.58 RCW.

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage. Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

“Priority species” means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below:

A. State-Listed or State Proposed Species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M- 6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

B. Vulnerable Aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate.

C. Species of Recreational, Commercial, and/or Tribal Importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

D. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

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

“Provisions” means policies, regulations, standards, guideline criteria or environment designations.

“Public access” means the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

“Public interest” means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

“Public trust doctrine” is a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The public trust doctrine does not allow the public to trespass over privately owned uplands to access the water. It does, however, protect public use of navigable water bodies below the ordinary high water mark.

“Qualified professional” shall meet the following criteria:

- A. A qualified professional for wetlands must have a bachelor’s degree or higher in biology, ecology, soil science, botany, or a closely related field, and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.
- B. A qualified professional for stream corridors must have a bachelor’s degree or higher in wildlife biology, ecology, fisheries, or closely related field, and a minimum of five years’ professional experience related to the subject species/habitat type.
- C. A qualified professional for geologically hazardous areas and preparation of geotechnical reports must be a professional engineering geologist or civil engineer, licensed in the state of Washington.
- D. A qualified professional for critical aquifer recharge areas must be a professional hydrogeologist, or environmental engineer licensed in the state of Washington.
- E. A qualified professional for channel migration zone reports must be a professional engineering geologist, civil engineer or geologist licensed in the state of Washington, with a minimum of five years of professional experience in geomorphology.
- F. A qualified professional for flood studies must be a professional engineering geologist or civil engineer licensed in the state of Washington.
- G. A qualified professional for economic studies must have a bachelor’s degree or higher in economics or business administration with five years of professional experience. The five year standard shall be waived for professionals with a PhD degree.
- H. A qualified professional for habitat assessments and habitat management plans must have a bachelor’s degree or higher in biology and professional experience related to the subject species or habitat.
- I. Or other person/persons with experience, training, expertise and related work experience appropriate for the relevant critical area subjects determined acceptable to the shoreline administrator.

“Recreation, high intensity” means use areas with major structures and improvements, such as an urban park with extensive paved surfaces or substantially altered vegetation. RV park/camping with units remaining year-round is included in this category.

“Recreation, low intensity” means unimproved use areas, such as hiking or nature trails, primitive camping areas, swimming beaches, etc. An unimproved personal camping and recreation site is included in this category.

“Recreation, moderate intensity” means use areas with minor structures and improvements, such as campgrounds, picnic facilities, paved trails, swimming beaches, fishing sites, or nature/history interpretive centers. RV park/camping with units not remaining year-round is included in this category.

“Recreation vehicle” means a vehicle which is:

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

“Recreational development” means public or commercial activities or facilities that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, viewpoints, trails, public access facilities, and other low-intensity use outdoor recreation areas. Recreational uses that do not require a shoreline location, nor are related to the water, nor provide significant public access, are considered nonwater-oriented. For example, a recreation use solely offering indoor activities would be considered nonwater-oriented.

“Repair, normal” means to restore a development or structure to a state comparable to its original, legally established condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resources or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development, including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause substantial adverse effects to shoreline resources or environment. See also “Maintenance, normal.”

“Residential development” means construction or alteration, earth modification, subdivision and use of land primarily for human residence; including, but not limited to, single-family residences and multifamily dwellings, accessory uses, and structures normally associated with residential uses and structures. Residential development includes land divisions, including short plats, of residentially zoned land. It also includes all modifications to land and vegetation associated with construction, preparation, or maintenance of residential structures or accessory structures.

“Restore,” “restoration” or “ecological restoration” means the reestablishment or upgrading of impaired ecological shoreline processes or functions, such as those listed in YMC 17.09.030(E) that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions.

“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 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 bank stabilization or other in-water structure.

“Shall” means a mandate; the action must be done.

“Shorelands” or “shoreland areas” means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams and lakes which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

“Shoreline administrator” means the duly appointed city of Yakima director of community development, whichever is appropriate, or their designee.

“Shoreline areas” and “shoreline jurisdiction” means all “shorelines of the state” and “shorelands” as defined in RCW 90.58.030.

“Shoreline environment designations” are a classification of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

“Shoreline modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

“Shoreline stabilization” means structural or nonstructural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

“Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (A) shorelines of statewide significance; (B) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (C) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

“Shorelines hearings board” means a six-member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by the city on Department of Ecology approval of ~~master programs~~, rules, regulations, guidelines or designations under the SMA.

“Shorelines of statewide significance” means the following shorelines of the state:

- A. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
- B. Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer; and
- C. Those shorelands associated with subsections A and B of this definition.

“Shorelines of the state” are the total of all “shorelines” and “shorelines of statewide significance” within the state.

“Should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

“Significant” means a reasonable likelihood of more than a moderate adverse impact on environmental quality. Significance involves context and intensity and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact. The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

“Significant ecological impact” means an effect or consequence of an action if any of the following apply:

- A. The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.
- B. Scientific evidence or objective analysis indicates the action could cause measurable or noticeable reduction or harm to those ecological functions or ecosystem-wide processes under foreseeable conditions.
- C. Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes as part of cumulative impacts, due to similar actions that are occurring or are likely to occur. Any project may have one or more significant ecological impacts, which can be either short-term or long-term. Projects with short-term significant ecological impacts may still be considered beneficial if the project improved ecological function over the long term, either due to mitigation or because of short-term impacts, may be construction-related only.

“Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

“Single improved recreational vehicle site” means a site on which a recreational vehicle may be parked with minimal services (such as electricity, well and septic system), without a garage or carport, and without large accessory buildings (small detached storage sheds or accessory structures totaling one hundred twenty square feet or less may be allowed). Recreational vehicle sites not meeting these criteria are considered single-family residences.

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

“Soft structural shoreline stabilization” means shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a nonlinear, generally sloping arrangement. Linear, vertical faces are an indicator of hard structural shoreline stabilization (see above definition).

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

“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.

“Species of local importance” are those species that are of local concern due to their population status or their sensitivity to habitat alteration or that are game species.

“Start of construction,” for purposes of administering YMC 17.09.020, means the first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. “Permanent construction” does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as a garage, or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the “start of construction” includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park, “start of construction” means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks, “start of construction” is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

“State master program” is the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

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

“Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

“Substantial development” shall mean any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. “Consumer price index” means, for any calendar year, that year’s annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. See WAC 173-27-040 for a list of developments that are not considered substantial.

“Substantial improvement” for purposes of administering YMC 17.09.020 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:

- A. Before the improvement or repair is started; or
- B. Before the damage occurred to a structure that has been damaged and is being restored.

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 October 1, 1995, the effective date of this title, shall be used to define “substantial improvement” for said structure. The term does not, however, include either:

- A. 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
- B. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

“Substantially degrade” means to cause significant ecological impact.

“Unreasonable and disproportionate” means that locations outside of the floodway or CMZ would add more than twenty percent to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the shoreline administrator.

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

“Variance” is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

“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, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of a

fish and wildlife conservation area, ~~and~~ wetland ~~and other hydrologically related critical areas~~ as set forth in YMC 17.09.030(E) (Functional Properties) and YMC 17.09.040(D) (Wetland Functions and Rating). It is understood that optimal conditions do not always exist due to degradation of the vegetative buffer before establishment of this title, or due to colonization by nonnative species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

“Vessel” includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

“Water-dependent use” means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

“Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.

“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

“Water quality” means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term “water quantity” refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

“Water-related use” means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

“Waters of the state” are all lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

“Weir” means a structure generally built across a stream channel for the purpose of diverting water or trapping sediment or other moving objects transported by water.

“Wetland” or “wetlands” means that area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does 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. However, wetlands may include those artificial wetlands ~~specifically~~ intentionally created from nonwetland areas to mitigate conversion of wetlands.

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

“Wildlife habitat” means areas which, because of climate, soils, vegetation, relationship to water, location and other physical properties, have been identified as of critical importance to maintenance of wildlife species. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.01.100 Shoreline jurisdiction.

Pursuant to the authority of RCW 90.58.030(2)(f) and WAC 173-22-040(2)—(3), the jurisdictional limits of the shoreline master program within the city of Yakima for areas that are subject to these regulations are listed below. The city of Yakima has developed maps to generally depict the extent of shoreline jurisdictional boundaries for all shorelines within the county. These maps are for informational and illustrative purposes only and are not regulatory in nature. Where such maps are not available or do not correspond with physical features on the ground, jurisdictional boundaries shall be controlled by the criteria listed below, Chapter 173-22 WAC, and the Act itself. It is understood when the maps and the actual physical features do not correspond, the physical features will dictate the extent of the jurisdictional boundaries. It is understood that the actual physical features may change. The physical features will dictate the extent of the shoreline jurisdictional boundaries. Shoreline jurisdictional area shall include:

A. The following waterbodies in the city and, upon annexation, in the UGA:

1. Yakima River;
2. Naches River;
3. Cowiche Creek;
4. Willow Lake;
5. Lake Aspen; and
6. Rotary Lake.

B. Buchanan Lake shall be regulated under this SMP when the Washington Department of Natural Resources Surface Mine Reclamation Permit lapses or is terminated, or when the city receives a permit application for new development on or uses of Buchanan Lake. The original Shoreline Substantial Development and Conditional Use Permit (SH 84-3) issued by Yakima County for Buchanan Lake still governs.

C. Subject to subsection H of this section, wherever the “floodway” has been established by a flood insurance study prepared by the Federal Emergency Management Agency (FEMA), shoreline jurisdiction shall be the floodway plus two hundred feet, measured on a horizontal plane, or the one-hundred-year floodplain, whichever is lesser.

D. Subject to subsection H of this section, whenever the one-hundred-year floodplain has been identified by a flood insurance study prepared by the Federal Emergency Management Agency but where no “floodway” has been identified, shoreline jurisdiction shall be the one-hundred-year floodplain boundary or two hundred feet, measured in a horizontal plane, from the ordinary high water mark, whichever is greater.

E. Whenever there are no detailed floodplain or floodway studies, shoreline jurisdiction shall be two hundred feet, measured on a horizontal plane, from the ordinary high water mark.

F. Where a channel migration zone (CMZ) has been identified, and extends beyond the jurisdiction established by subsection C of this section, jurisdiction shall extend to the extent of the CMZ, but not beyond the limits of subsection D of this section.

G. Those wetlands and river deltas which are in proximity to and either influence or are influenced by the shorelines. This influence includes, but is not limited to, one or more of the following: periodic inundation, location within a floodplain, or hydraulic continuity.

H. Under no circumstances shall shoreline jurisdiction be less than two hundred feet, measured on a horizontal plane, from the ordinary high water mark of the shoreline waterbody, except that those portions of Buchanan Lake

within two hundred feet of the Yakima River are excluded from shoreline jurisdiction until Buchanan Lake is regulated as a shoreline waterbody. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

Chapter 17.03

SHORELINE ENVIRONMENT DESIGNATIONS

Sections:

- 17.03.005 Intent of provisions.
- 17.03.010 Floodway/channel migration zone (CMZ).
- 17.03.020 Urban conservancy.
- 17.03.030 High intensity.
- 17.03.040 Essential public facilities.
- 17.03.050 Shoreline residential.
- 17.03.060 Aquatic.
- 17.03.070 Shoreline use and modification matrix.
- 17.03.080 Development standards.
- 17.03.090 Official shoreline maps and unmapped or undesignated shorelines.
- 17.03.100 Predesignation.

17.03.005 Intent of provisions.

This SMP is intended to meet the requirements in WAC 173-26-211. It states that:

Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211(4) and (5) unless the alternative proposed provides equal or better implementation of the act.

This SMP is consistent with these requirements, deviating from WAC 173-26-211(4) and (5) with respect only to some environment designation names, or the addition of new environment designations where such provides the city with opportunity to provide further, but complementary, designations consistent with existing land management plans. Each environment designation contains a purpose statement, designation criteria, and management policies components. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.010 Floodway/channel migration zone (CMZ).

A. Purpose. The "floodway/CMZ" environment is intended to protect the water areas, islands, associated overflow channels, and channel migration areas. This environment provides for the movement of the river within its floodplain, and emphasizes preservation of the natural hydraulic, geologic and biological functions of the city's shorelines that are constrained by biophysical limitations.

B. Designation Criteria. The floodway/CMZ designation is assigned to shoreline areas that are within a mapped channel migration zone and/or within a designated FEMA floodway. The extent of the floodway/CMZ designation should never extend beyond the limitations of the shoreline CMZ found in WAC 173-26-221(3)(b). Areas separated from the active river channel by existing legal artificial channel constraints should not be considered as part of the CMZ. In addition, areas that are separated from the active channel by legally existing artificial structure(s) including transportation facilities, built above or constructed to remain intact through the one-hundred-year flood, should also not be considered part of the CMZ.

C. Management Policies.

1. Commercial, industrial, mining, nonwater-oriented recreation, roads, utilities, parking areas, and residences should generally not be located in the floodway/CMZ environment. Other uses (recreation, resource, etc.) should be carefully limited to protect shoreline functions.
2. Activities that may degrade the value of the floodway/CMZ environment should be limited, and development in hazardous areas should be restricted.

3. Modifications that harden or fix stream banks and channels should be discouraged. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.020 Urban conservancy.

A. Purpose. The “urban conservancy” environment is intended to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

B. Designation Criteria. Specific criteria for designation of the urban conservancy environment include areas or properties that:

1. Lie in the city limits and urban growth areas;
2. Are planned for development that is compatible with the principles of maintaining or restoring the ecological functions of the area;
3. Are suitable for water-enjoyment uses;
4. Are open space or floodplains; or
5. Are areas that retain important ecological functions which should not be more intensively developed.

C. Management Policies.

1. Allowed uses for the urban conservancy environment generally include uses which preserve the natural character of the area, and promote the preservation of open space, floodplains or sensitive lands.
2. Uses allowed under this designation should focus on recreation.
3. Commercial, industrial and residential uses should be limited, and when allowed, result in restoration of ecological functions.
4. Public access and recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.030 High intensity.

A. Purpose. The purpose of the “high intensity” environment is to provide for high intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

B. Designation Criteria. Specific criteria for designation of the high intensity environment include areas or properties that:

1. Presently support high intensity land uses including commercial, industrial, urban recreational, transportation, or high intensity water-oriented uses.
2. Are planned to accommodate urban expansion of uses listed in subsection (B)(1) of this section.

C. Management Policies.

1. Water-oriented commercial, industrial, and recreation uses should be given high priority in the high intensity environment. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

2. When considering shoreline environment designation amendment proposals, full utilization of existing high intensity areas should be achieved before further expansion of intensive development is allowed.
3. New development in the high intensity designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
4. Where feasible, visual and physical public access should be required as part of development in the high intensity designation unless it already exists to serve the development or other safety, security, or fragile environmental conditions apply.
5. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative separation. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.040 Essential public facilities.

- A. Purpose. The “essential public facilities” environment is intended to support planning and maintenance of existing essential public facilities.
- B. Designation Criteria. The essential public facilities designation is assigned to lands containing those facilities that are typically difficult to site or relocate, such as state or regional transportation facilities and wastewater handling facilities.
- C. Management Policies.
 1. Essential public facilities and their accessory or supporting uses are allowed in the essential public facilities environment.
 2. Allowed new development in the essential public facilities designation should assure no net loss of shoreline ecological functions.
 3. Where applicable, new and expanded development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
 4. Expansion and improvement of existing facilities should be allowed, with mitigation sequencing applied to avoid and then minimize adverse impacts to the extent consistent with the specific facility and public needs, with mitigation required for any remaining adverse impacts. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.050 Shoreline residential.

- A. Purpose. The purpose of the “shoreline residential” environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.
- B. Designation Criteria. Assign a shoreline residential environment designation to areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development.
- C. Management Policies.
 1. Development standards addressing the development envelope, water quality, and vegetation should assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
 2. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
4. Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.060 Aquatic.

- A. Purpose. The purpose of the “aquatic” environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark of shoreline lakes.
- B. Designation Criteria. The aquatic designation applies to lands and waters waterward of the ordinary high water mark of shoreline lakes.
- C. Management Policies.
 1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration. The size of new over-water structures should be limited to the minimum necessary to support the structure’s intended use.
 2. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.
 3. Uses that could adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when their impacts are mitigated according to mitigation sequencing as necessary to assure no net loss of ecological functions.
 4. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
 5. When considering development or activities in the aquatic environment, the city should favor development and activities associated with preferred uses of the Shoreline Management Act and apply development standards that consider water quality, navigation, presence of aquatic vegetation, existing critical habitats, aesthetics, public access, and views. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.070 Shoreline use and modification matrix.

Table 03.070-1 lists the uses and activities for each shoreline environment designation that are allowed by substantial development permit and/or conditional use permit, or are prohibited. Such uses shall be processed in accordance with Chapter 17.13 YMC (Administration and Enforcement). This table does not change those situations of when this title does not apply to a development (YMC 17.01.020, Applicability), or when a use or activity listed as needing a shoreline substantial development permit may qualify for an exemption instead (YMC 17.13.050, Exemptions from shoreline substantial development permits). Definitions for some uses are provided in YMC 17.01.090. The provisions in Table 03.070-1 apply to specific common uses and types of development only to the extent they occur within shoreline jurisdiction.

Table 03.070-1. Shoreline Use and Modification Matrix

Shoreline Use or Modification	High Intensity	Essential Public Facilities	Shoreline Residential	Urban Conservancy	Floodway/Channel Migration Zone (CMZ)	Aquatic - Lakes
Key: S = Shoreline Substantial Development Permit or Exemption C = Shoreline Conditional Use Permit X = Prohibited N/A = Not Applicable						
Agriculture						
Agricultural Activities	S	X	S	S	S	N/A
Agricultural Market, Agricultural Stand	S	X	X	S	X	N/A
Winery and Brewery	S	X	X	S	X	N/A
Agriculture-Industrial						
Agricultural Chemical Sales/Storage	S	X	X	X	X	N/A
Agricultural Related Industries and Storage	S	X	X	C	X	N/A
Concentrated Feeding Operation	X	X	X	X	X	N/A
Aquaculture						
Rearing						
Commercial	X	X	X	X	X	X
Noncommercial	S	S	X	C	C	S
Processing	X	X	X	X	X	X
Packing and Storage	See Industry/Manufacturing/Storage					
Boating and Private Moorage Facilities						
Boat Launches						
Private	S	X	C	X	X	See upland designation
Public/Community/Commercial	S	S	S	S	S	S
Pier/Dock						
Single-Family Residence Facility to Access Watercraft	N/A	X	S	X	X	S
Water-Dependent Commercial, Industrial, Aquaculture, Recreational, or Community Residential Use; or Public Access	S	X	S	X	X	S
Commercial and Service Development						
Retail, Trade, and Service						
Water-Oriented	S	X	X	S	X	C

Shoreline Use or Modification	High Intensity	Essential Public Facilities	Shoreline Residential	Urban Conservancy	Floodway/Channel Migration Zone (CMZ)	Aquatic - Lakes
Key: S = Shoreline Substantial Development Permit or Exemption C = Shoreline Conditional Use Permit X = Prohibited N/A = Not Applicable						
Nonwater-Oriented						
General	C	X	X	C	X	X
General + Public Benefit ¹	S	X	X	C	X	X
Separated from Shoreline	S	X	X	S	X	X
Mixed-Use ⁴ Project That Includes a Water-Dependent Commercial, Industrial, Aquaculture, or Recreational Use	S	X	X	S	X	C
Outdoor Manufacturing, Processing and Storage	S	X	X	X	X	X
Community Services and Institutional Uses						
Water-Oriented	S	S	X	S	X	C
Nonwater-Oriented						
General	C	C	X	C	X	X
Separated from Shoreline	S	S	X	S	X	N/A
Mixed-Use ⁴ Project That Includes a Water-Dependent Commercial, Industrial, Aquaculture, or Recreational Use	S	S	X	S	X	C
Health and Social Service Facility	S	S	X	X	X	X
Mixed-Use Building ⁵	S	X	X	X	X	X
Dredging and Dredge Material Disposal						
Dredging for Water-Dependent Use and Public Access	N/A	C	N/A	N/A	C	C
Dredging for Existing Navigation Uses	N/A	X	N/A	N/A	X	C
Dredging for Habitat Restoration	N/A	S	N/A	N/A	S	S
Dredging, Other	N/A	X	N/A	N/A	X	X
Disposal of Dredged Material, General	S	S	X	X	X	X
Disposal of Dredged Material, General + Part of Restoration Plan	S	S	X	C	C	X
Dredging Maintenance Plan	N/A	S	N/A	N/A	S	S
Fill						
Waterward of the OHWM, General	N/A	C	N/A	N/A	C	C
Waterward of the OHWM, General + Part of Restoration Plan	N/A	S	N/A	N/A	S	S

Shoreline Use or Modification						
Key: S = Shoreline Substantial Development Permit or Exemption C = Shoreline Conditional Use Permit X = Prohibited N/A = Not Applicable	High Intensity	Essential Public Facilities	Shoreline Residential	Urban Conservancy	Floodway/Channel Migration Zone (CMZ)	Aquatic - Lakes
Upland of the OHWM, General	S	S	S	S	C	N/A
Upland of the OHWM, Part of Restoration Plan	S	S	S	S	S	N/A
Flood Hazard Reduction Measures						
Modification of Existing Flood Hazard Facilities (including relocation farther landward)	S	S	S	S	S	N/A
New Facilities	C	C	C	C	C	N/A
Forest Practices						
Forest Practices	N/A	N/A	N/A	N/A	N/A	N/A
Industry/Manufacturing/Storage						
Water-Oriented	S	X	X	C	X	C
Nonwater-Oriented						
General	C	X	X	X	X	X
General + Part of Restoration Plan, Provides Other Public Benefit ¹ , or Located in Degraded Area ²	S	X	X	X	X	X
Outdoor Manufacturing, Processing and Storage	X	X	X	X	X	X
Separated from Shoreline	S	X	X	C	X	N/A
Mixed-Use ⁴ Project That Includes a Water-Dependent Commercial, Industrial, Aquaculture, or Recreational Use	S	X	X	C	X	C
In-Water Structures						
To Protect Public Facilities	C	C	C	C	C	C
To Protect or Restore Ecological Functions	S	S	S	S	S	S
To Monitor Flows, Water Quality, or Other Habitat Characteristics	S	S	S	S	S	S
Other	C	C	C	X	X	C
Mining						
Surface Mining	C	X	X	X	X	X
Underground Mining	X	X	X	X	X	X
Mining for Habitat Restoration	S	S	S	S	C	S
Recreational Development						
Water-Oriented						
High-Intensity, General	S	S	S	C	C	C

Shoreline Use or Modification	High Intensity	Essential Public Facilities	Shoreline Residential	Urban Conservancy	Floodway/Channel Migration Zone (CMZ)	Aquatic - Lakes
Key: S = Shoreline Substantial Development Permit or Exemption C = Shoreline Conditional Use Permit X = Prohibited N/A = Not Applicable						
High Intensity, General + Part of Restoration Plan or Located in Degraded Area ²	S	S	S	S	S	S
Moderate-Intensity, General	S	S	S	S	C	C
Moderate-Intensity, General + Part of Restoration Plan or Located in Degraded Area ²	S	S	S	S	S	S
Low-Intensity	S	S	S	S	S	S
Trails	S	S	S	S	S	S
Recreation Maintenance Plan	S	S	S	S	S	S
Nonwater-Oriented						
General	C	X	X	C	X	X
Sites Separated from Shoreline	S	X	S	S	C	N/A
Indoor	See Commercial and Service Development					
Residential Development						
Single-Family Dwelling	S	X	S	S	X	N/A
Accessory Dwelling Unit	S	X	S	S	X	N/A
Duplex	S	X	C	C	X	N/A
Multifamily Dwelling	S	X	X	X	X	N/A
Manufactured Home Park or Subdivision ³	C	X	X	X	X	N/A
Houseboats and Over-Water Residential Uses	N/A	X	N/A	N/A	X	X
Residential Maintenance Plan	S	N/A	S	N/A	N/A	S
Shoreline Habitat and Natural Systems Enhancement Projects						
Shoreline Habitat and Natural Systems Enhancement Projects	S	S	S	S	S	S
Shoreline Stabilization						
Hard Stabilization	C	C	C	C	C	C
Soft Stabilization	S	S	S	C	C	S
Repair and Replacement	S	S	S	S	S	S
Signs						
On-Premises for Authorized Use	S	S	S	S	S	S
Off-Premises	S	S	X	X	X	X

Shoreline Use or Modification						
Key: S = Shoreline Substantial Development Permit or Exemption C = Shoreline Conditional Use Permit X = Prohibited N/A = Not Applicable	High Intensity	Essential Public Facilities	Shoreline Residential	Urban Conservancy	Floodway/Channel Migration Zone (CMZ)	Aquatic - Lakes
Informational (directional, landmark, trail marker, etc.)	S	S	S	S	S	S
Transportation and Parking						
New Access Roads Serving Permitted Uses	S	S	S	S	C	N/A
Expanded Access Roads Serving Permitted Uses	S	S	S	S	S	N/A
New Highways, Freeways, Arterials and Collectors	S	S	C	C	C	C
Expanded Highways, Freeways, Arterials and Collectors	S	S	S	S	S	S
New Bridges	S	S	C	C	C	C
Expanded Bridges	S	S	S	S	S	S
Transportation Maintenance Plan	S	S	S	S	S	N/A
Transportation Maintenance Facilities	C	S	X	C	X	X
New Railways	S	S	C	C	C	C
Expanded Railways	S	S	S	S	S	S
Parking for Authorized Use	Reviewed as part of authorized use.					
Park and Ride Lots and Similar Stand Alone Parking	C	S	X	X	X	X
Utilities						
Utility Services Accessory to Individual Shoreline Projects	Reviewed as part of authorized use.					
Utility Services to Projects outside Shoreline Jurisdiction	S	S	S	S	C	C
New Power Generating Facilities	C	C	X	C	X	C
Expanded Power Generating Facilities	S	S	X	C	X	C
Utility Transmission Lines	S	S	C	C	C	C
New Utility Services, General	C	C	C	C	C	C
Expanded Utility Services, General	S	S	S	S	C	C
Utility Maintenance Plan	S	S	S	S	S	S
Wastewater Treatment Facility	C	S	X	C	C	X
Wastewater Treatment Facility+ Part of Restoration Plan or Located in Degraded Area ²	S	S	X	S	S	X

¹ Public benefit = public access for substantial numbers of persons or shoreline ecological restoration.

² Degraded area = improved rights-of-way, levees, previously legally degraded land, or existing impervious area.

- ³ Construction of a manufactured home on an existing lot is permitted as a “single-family dwelling.”
- ⁴ In this context, “mixed-use” means a shoreline development that includes and supports a water-dependent use.
- ⁵ “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.

(Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.080 Development standards.

A. There shall be a thirty-five-foot maximum building height for all structures, except that utility towers and poles, water treatment towers, wastewater treatment facilities and bridges are not required to meet this standard. To exceed thirty-five feet, an applicant must apply for a shoreline variance, and comply with the following criteria in addition to standard shoreline variance criteria:

1. Demonstrate overriding considerations of the public interest will be served.
2. Demonstrate that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair scenic vistas to the Yakima Greenway or Naches River or associated lakes.

B. Minimum shoreline lot frontage shall be consistent with underlying zoning and be no less in width than the following by shoreline environment:

1. High intensity, essential public facilities: thirty-five feet.
2. Shoreline residential: fifty feet.
3. Urban conservancy, floodway/CMZ: sixty feet.

C. Shoreline buffers: See YMC 17.09.030.

D. Minimum structure setback from side property lines in shoreline jurisdiction shall be consistent with the underlying zoning and no less than five feet. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.090 Official shoreline maps and unmapped or undesignated shorelines.

A. The shoreline jurisdiction and environment designations established by this title are shown on the official Shoreline Jurisdiction and Environment Designations Map for the Yakima urban growth area. The official Shoreline Jurisdiction and Environment Designations Map, together with all the explanatory material thereon, is adopted by reference and declared to be a part of this SMP. The electronic files of the official map will be considered the official version and may be updated administratively or through an SMP amendment as indicated in subsections B, C and D of this section. The Department of Ecology will be provided with electronic files of the official map when any updates are made. Minor mapping errors corrected administratively shall not be greater than one acre in size. If greater than one acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

B. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of ordinary high water mark, floodway, channel migration zones, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an urban conservancy environment designation. Correction of these minor mapping inaccuracies may be made and incorporated into the official Shoreline Jurisdiction and Environment Designations Map without an SMP amendment.

C. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned an urban conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and YMC 17.13.140.

D. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and ordinary high water mark determinations are valid for five years from the date they are assessed and flagged in the field. After five years have elapsed, the city shall determine whether a revision or additional assessment is necessary. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current, accurate, and complete scientific and technical information available.

E. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of this SMP. Revisions to the official Shoreline Jurisdiction and Environment Designations Map may be made as outlined in subsection B of this section without an SMP amendment. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.03.100 Predesignation.

The city of Yakima has adopted shoreline environment predesignations for shorelines located outside of city limits but within the city's urban growth area. In the event of annexation of a shoreline, the affected area shall be subject to the Yakima shoreline master program upon the effective date of the annexation.

The city has also adopted shoreline environment predesignations for Buchanan Lake and its future associated shorelands. In the event that the Washington Department of Natural Resources Surface Mine Reclamation Permit lapses or is terminated, or when the city receives a permit application for new development on or uses of Buchanan Lake, Buchanan Lake shall be considered a shoreline waterbody and will be subject to this SMP. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

Chapter 17.05

GENERAL REGULATIONS

Sections:

- 17.05.010 Archaeological and historic resources.
- 17.05.020 Environmental protection.
- 17.05.030 Shoreline vegetation conservation.
- 17.05.040 Water quality, stormwater, and nonpoint pollution.
- 17.05.050 Public access.
- 17.05.060 Flood hazard reduction.

17.05.010 Archaeological and historic resources.

A. The city shall require that permits issued in areas documented to contain archaeological resources or located within an area classified as “high risk and/or very high risk” for archaeological resources based on the Washington State Department of Archaeology and Historic Preservation (DAHP) predictive model require a site inspection or evaluation by a professional archaeologist. Auger tests may be required before construction and representatives of DAHP and Yakama Nation may be invited to observe any tests and construction work, and will be provided the results of such tests. If auger or historical data indicate probable presence of cultural resources which may be disturbed by excavation, the city shall meet the shoreline permit applicant and may impose conditions on any shoreline permit to assure that such resources are protected, preserved or collected.

B. Developers and property owners shall immediately stop work and notify the city, DAHP, and the Yakama Nation if archaeological resources are uncovered during excavation. Following such notification, the city may follow the provisions of subsection C of this section.

C. Where a professional archaeologist or historian, recognized by the state of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, or where the DAHP predictive model identifies the area as having “high risk and/or very high risk” for archaeological resources, the city shall require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.05.020 Environmental protection.

A. Ecological Functions. Uses and developments on city of Yakima shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. Uses and developments must not have an unmitigated significant adverse impact on other shoreline functions fostered by this SMP.

B. Protection of Critical Areas and Critical Areas Buffers. Critical areas, critical area buffers, and shoreline buffers must be protected in accordance with the provisions of Chapter 17.09 YMC, Critical Areas in Shoreline Jurisdiction.

C. Mitigation Requirement. If a proposed shoreline development, use or modification is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, only then is a mitigation sequencing analysis described in subsection D of this section not required. In the following circumstances, the applicant must provide the mitigation sequencing analysis described in subsection D of this section:

1. If a proposed shoreline use or modification is addressed in any part by discretionary standards (such as standards requiring a particular action if feasible or requiring the minimization of development size) contained in this chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or
2. When an action requires a shoreline conditional use permit or shoreline variance permit; or

3. When specifically required by regulations contained in this chapter and Chapters 17.07 and 17.09 YMC.

D. Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss of ecological functions provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to subsection C of this section must describe how the proposal will follow the sequence of mitigation as defined below:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
4. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. Monitor the impact and the compensation projects and take appropriate corrective measures.

E. Mitigation Plan. All proposed alterations to shoreline jurisdiction that will have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the city of Yakima, but may be voluntarily performed by an applicant. In addition to any requirements found in Chapter 17.09 YMC, Critical Areas in Shoreline Jurisdiction, a mitigation plan must include:

1. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
2. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;
3. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;
4. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction and after the project site has been fully developed;
5. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;
6. A contingency plan if mitigation fails to meet established success criteria; and
7. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

F. Alternative Mitigation. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.05.030 Shoreline vegetation conservation.

A. Vegetation conservation standards do not apply retroactively to existing uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction as stipulated in the approval documents for the development.

B. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas must be managed consistent with Chapter 17.09 YMC, Critical Areas in Shoreline Jurisdiction. Regulations specifying establishment and management of shoreline buffers (buffers associated with Type 1 streams and shoreline lakes) are located in YMC 17.09.030, Fish and wildlife habitat conservation areas.

C. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, other stream buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to YMC 17.05.020, Environmental protection, and any other regulations specific to vegetation management contained in this SMP and city of Yakima Code.

D. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and city of Yakima Code. Mitigation sequencing per YMC 17.05.020(D) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development minimizes native vegetation removal. The city may approve modifications or require minor site plan alterations to achieve maximum tree retention.

E. Where vegetation removal conducted consistent with this section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Adverse impacts are assumed to result from:

1. Removal of native trees and shrubs;
2. Removal of nonnative trees or shrubs that overhang aquatic areas or stabilize slopes; or
3. Removal of native or nonnative trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

Mitigation plans must be prepared by a qualified professional and must contain information required in YMC 17.05.020(E). Mitigation measures must be maintained over the life of the use or development, and must include compensation for temporal loss of function and the restoration of specific functions adversely impacted by the vegetation removal. Removal of invasive species does not require mitigation, but the removal site must be managed as outlined in subsection I of this section to avoid and minimize potential adverse impacts.

F. Shoreline vegetation may be removed to accommodate a temporary staging area when necessary to implement an allowed use or modification, but mitigation sequencing must be utilized and the area must be immediately stabilized and restored with native vegetation once its use as a staging area is complete.

G. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function. If a safety hazard cannot be easily determined by the city, a written report by a certified arborist or other qualified professional is required to evaluate potential safety hazards.

H. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

I. Hand removal or spot-spraying of invasive species or noxious weeds on shorelands outside of steep or unstable slope areas is encouraged. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive species, the area must be stabilized using best management practices and replanted with native plants.

J. Aquatic weed control may only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control

efforts must comply with all applicable laws and standards. Removal using mechanical methods is preferred over chemical methods. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.05.040 Water quality, stormwater, and nonpoint pollution.

A. Do Not Degrade Ecological Functions. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that there is no net loss of ecological functions.

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

C. Requirements for New Development.

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

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

D. Chemical Applications. Pesticides, herbicides, and fertilizers should be applied in a manner which minimizes direct or indirect entrance into nearby waters. Application of pesticides intended to abate mosquitoes or similar water-related infestations should be administered in accordance with Environmental Protection Agency standards.

E. Sewage Management. To avoid water quality degradation, sewer service is subject to the requirements outlined below.

1. Any existing septic system or other on-site system that fails or malfunctions will be required to connect to an existing municipal sewer service system if feasible, or make system corrections approved by Yakima public health.

2. Any new development, business, single-family or multifamily unit will be required to connect to an existing municipal sewer service system if feasible, or install an on-site septic system approved by Yakima public health.

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

G. Low Impact Development (LID). Use of the most current version of the Yakima Regional [Low Impact Development \(LID\) Stormwater Design Manual](#) throughout the various stages of development, including site assessment, planning and design, site preparation, construction, and ongoing management, is encouraged. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.05.050 Public access.

- A. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.
- B. The city shall not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.
- C. Efforts to implement the public access provisions of this section shall be consistent with all relevant constitutional and other legal limitations on regulation of private property and the principles of nexus and proportionality. Public access requirements on privately owned lands should be commensurate with the scale and character of the development and should be compatibly designed to meet needs of affected parties including, but not limited to, the landowner and the public.
- D. Applications that access or are part of properties owned by Yakima County shall submit documentation of county approval prior to submittal to the city.
- E. Public access does not include the right to enter upon or cross private property, except on dedicated public rights-of-way or easements or where development is specifically designed to accommodate public access.
- F. Except as provided in subsection G of this section, shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:
1. The development is proposed by a public entity or on public lands, or is a publicly financed erosion control measure;
 2. The nature of the proposed use, activity or development will likely generate a public demand for one or more forms of physical or visual access to the shoreline;
 3. The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as a nonwater-oriented commercial or industrial use; or
 4. The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the public trust doctrine (see definition, YMC 17.01.090).
- G. An applicant shall not be required to provide public access where the city determines that one or more of the following conditions apply:
1. Reasonable, safe and convenient public access to the shoreline is accessible within one-quarter mile (one thousand three hundred twenty feet) of the site, or the city's adopted parks and recreation plans do not indicate a need for a trail or access at the property;
 2. The site is within or part of an overall development which has previously provided public access through other application processes;
 3. The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity or development;
 4. The proposed use, activity or development only involves the construction of four or fewer single-family or multifamily dwellings;
 5. The proposed use, activity or development only involves agricultural activities;
 6. The proposal consists of a new or expanded road or utility crossing through shoreline jurisdiction serving development located outside of shoreline jurisdiction;

7. The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards based on evidence provided in the proposed application;
8. The proposed use, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;
9. Significant and unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;
10. Public access is deemed detrimental to threatened and/or endangered species under the Endangered Species Act.

H. Public Access Standards. When public access is provided, the following standards shall apply:

1. Physical public access is preferred to solely visual access. Where physical public access is not feasible, the applicant shall incorporate visual public access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a trail, park, or other area serving as a means of physical approach to public waters.
2. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way or access easements, consistent with design and safety standards.
3. Public access proposals shall be designed consistent with parks and recreation standards or plans contained in applicable city, county, state, or federal codes or approved plans.

I. Shared community access may be allowed if there is no existing or planned public access along the shoreline as determined by a review of adopted parks and recreation plans. Where provided, community access is subject to all applicable development standards of this section.

J. Off-site public access, either physical or visual, may be permitted by the city where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access is preferred where it implements adopted city, county, or Yakima Greenway parks and recreation plans. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g., existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with city standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.

K. The city may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.05.060 Flood hazard reduction.

A. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including YMC 17.09.020, as well as applicable guidelines of the Federal Emergency Management Agency and an approved comprehensive flood hazard management plan.

B. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC guidelines.

C. The following uses and activities may be authorized within the CMZ or floodway:

1. New development or redevelopment on or landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

2. Development of new or expansion or redevelopment of existing bridges, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible (see definition in YMC 17.01.090) alternative exists or the alternative would result in unreasonable and disproportionate costs (see definition in YMC 17.01.090). The evaluation of cost differences between options within the CMZ or floodway and outside of the CMZ or floodway shall include the cost of design, permitting, construction and long-term maintenance or repair. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.
3. Development of new or expansion or redevelopment of existing utility lines where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. The evaluation of cost differences between options within the CMZ or floodway and outside of the CMZ or floodway shall include the cost of design, permitting, construction and long-term maintenance or repair. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline. When the primary purpose of a utility transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:
 - a. All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways;
 - b. Electric transmission lines shall span the floodway with support towers located in floodway fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed;
 - c. Buried utility transmission lines transporting hazardous and nonhazardous materials, including but not limited to crude and refined petroleum products and natural gas, 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 this title;
 - d. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features; and
 - e. Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the 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 this subsection (C)(3).
4. New or redeveloped measures to reduce shoreline erosion; provided, that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

5. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
 6. Water-dependent installations which by their very nature must be in the floodway. In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing (examples of water-dependent installations are: docks and boat launches; dams for domestic/industrial water supply; wastewater treatment and collection systems; flood control and/or hydroelectric production; water diversion structures and facilities for water supply; irrigation and/or fisheries enhancement; floodwater and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; and nonstructural uses and practices; provided, that the applicant shall provide evidence that a floodway location is necessary in view of the objectives of the proposal, and provided further that the proposal is consistent with other provisions of this chapter and title).
 7. Modifications or additions to an existing nonagricultural legal use; provided, that channel migration is not further limited and that the modified or expanded development includes appropriate protection of ecological functions.
 8. Repair and maintenance of existing legally established use and developments; provided, that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.
 9. Existing and ongoing agricultural activities; provided, that no new restrictions to channel movement are proposed.
- D. Existing structural flood hazard reduction measures, such as levees, may be repaired and maintained as necessary to protect legal uses on the landward side of such structures. Increases in height of an existing levee, with any associated increase in width, that may be needed to prevent a reduction in the authorized level of protection of existing legal structures and uses shall be considered an element of repair and maintenance.
- E. Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.
- F. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.
- G. New public and private structural flood hazard reduction measures:
1. Shall be approved when a scientific and engineering analysis demonstrates the following:
 - a. That they are necessary to protect existing development;
 - b. That nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;
 - c. That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;
 - d. That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;
 - e. That 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
 - f. That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

2. Shall be consistent with an approved comprehensive flood hazard management plan.
3. Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the shoreline administrator.

H. All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

I. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development. Setbacks of existing levees are not considered “new” structural flood hazard reduction measures for purposes of this regulation.

J. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing city-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by the approving flood hazard agency.

K. The removal of gravel or other riverbed material for flood management purposes shall be consistent with YMC 17.07.050, Dredging and dredge material disposal, and be allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

L. Roads shall be located outside the floodway, except necessary crossings which shall be placed perpendicular to the waterbody as much as is physically feasible. New transportation facilities shall be designed so that the effective base flood storage volume of the floodplain is not reduced. The applicant shall provide all necessary studies, reports and engineering analyses which shall be subject to review and modification by the city. If proposed transportation facilities effectively provide flood control, they shall comply with policies and regulations of this section.

M. In recognition of the significant benefits of levee setbacks, maximum flexibility of this title, including Chapter 17.09 YMC, Critical Areas in Shoreline Jurisdiction, should be granted when existing structural flood hazard reduction measures are proposed for relocation landward of the existing flood hazard reduction measure. Existing public access or recreation facilities that need to be relocated to accommodate the relocated flood hazard reduction measure shall be allowed to be reconstructed in the floodway or channel migration zone provided they do not further limit channel migration or increase flood hazards. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

Chapter 17.07

USE-SPECIFIC AND MODIFICATION REGULATIONS

Sections:

- 17.07.010 Agriculture.
- 17.07.020 Aquaculture.
- 17.07.030 Boating and private moorage facilities.
- 17.07.040 Commercial and service development.
- 17.07.050 Dredging and dredge material disposal.
- 17.07.060 Fill.
- 17.07.070 Industry.
- 17.07.080 In-water structures.
- 17.07.090 Mining.
- 17.07.100 Recreational development.
- 17.07.110 Residential development.
- 17.07.120 Shoreline habitat and natural systems enhancement projects.
- 17.07.130 Shoreline stabilization.
- 17.07.140 Signs.
- 17.07.150 Transportation and parking.
- 17.07.160 Utilities.
- 17.07.170 Redevelopment, repair, and maintenance.

17.07.010 Agriculture.

- A. For shoreline purposes, WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.
- B. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP.
- C. SMP provisions shall apply in the following cases:
1. New agricultural activities on land not meeting the definition of agricultural land;
 2. Expansion of agricultural activities on nonagricultural lands or conversion of nonagricultural lands to agricultural activities;
 3. Conversion of agricultural lands to other uses;
 4. Other development on agricultural land that does not meet the definition of agricultural activities; and
 5. Agricultural development and uses not specifically exempted by the Act.
- D. Concentrated animal feeding operations (see definition in YMC 17.01.090) are prohibited in shoreline jurisdiction.
- E. New agricultural activities and facilities shall utilize best management practices established by the USDA Natural Resources Conservation Service or other similar agency.
- F. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.020 Aquaculture.

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

- A. All structures located within waterbodies shall not preclude navigability of those waters at any time, and shall be clearly marked so as to provide no hazard to navigation on those waters.
- B. Aquaculture facilities shall be designed and located to avoid significant conflict with water-dependent uses, the spreading of disease, introduction of nonnative species, or impacts to shoreline aesthetic qualities.
- C. New aquaculture proposals shall comply with mitigation sequencing requirements as outlined in YMC 17.05.020(D), and with all other general standards in Chapter 17.05 YMC. Aquaculture activities that would have a significant adverse impact on natural, dynamic shoreline processes, or that would result in a net loss of shoreline ecological functions, shall be prohibited.
- D. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, and commercial navigation. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use should be given, while the potential impacts on existing uses and natural systems are recognized.
- E. Aquaculture that supports recovery of endangered or threatened fish species or supports public or community recreation is encouraged provided it is conducted within the bounds of subsections A through C of this section. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.030 Boating and private moorage facilities.

- A. All boating facilities and residential moorage structures shall be the minimum size necessary to meet the needs of the use.
- B. New pier or dock construction, excluding docks accessory to single-family residences, must demonstrate that a specific need exists to support the intended water-dependent or public access use. Docks associated with single-family residences are defined as water-dependent uses provided they are designed and intended as a facility for access to watercraft.
- C. New residential development of two or more dwellings must provide joint-use or community dock facilities, when feasible, rather than allow individual docks for each residence.
- D. Docks, piers, and any other over-water structures for purposes of temporary or permanent boat moorage are prohibited in free-flowing streams and rivers.
- E. Public, commercial, industrial, or community residential boating facilities shall:
 - 1. Comply with the health, safety and welfare standards of state and local agencies for such facilities;
 - 2. Be so located and designed as not to obstruct or cause danger to normal public navigation of waterbodies, if applicable;
 - 3. Be restricted to suitable locations;
 - 4. Avoid or mitigate for aesthetic impacts;
 - 5. Mitigate impacts to existing public access and navigation, if applicable;
 - 6. Provide documentation of ownership or authorization to use associated water areas;
 - 7. Demonstrate that state and local regulations will be met. Agencies responsible for such regulations shall be consulted as to the viability of the proposed design; and

8. Submit an operations and site plan demonstrating:
 - a. Location and design of fuel handling and storage facilities to minimize accidental spillage and protect water quality;
 - b. Proper water depth and flushing action for any area considered for overnight or long-term moorage facilities;
 - c. Adequate facilities to properly handle wastes from holding tanks;
 - d. That boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, and access; and
 - e. Adequate access, parking, and restroom facilities for the public when required or appropriate. Such facilities should be located away from the immediate water's edge.

F. Private Residential Docks.

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

G. Boat Launches.

1. Launch ramps shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available, with consideration for site-specific conditions and the particular needs of that use. At a minimum, they shall minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.
2. New boat launch facilities shall be approved only if they provide public access to public waters that are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing boat launch facilities at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities is not feasible or would not be adequate to meet a specific recreation or safety-related demand. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.040 Commercial and service development.

The following provisions apply to any development, construction, or use of land or water for commercial and community service purposes within shoreline jurisdiction:

- A. Water-dependent commercial development shall be given priority over nonwater-dependent commercial uses. Secondarily, water-related and water-oriented uses shall be given priority over nonwater-oriented commercial uses.
- B. Application for new commercial or community services shall demonstrate either:
 1. How the use qualifies as a water-oriented use and how facilities function as such; or
 2. The use is part of a mixed-use project that includes water-dependent uses; or
 3. Navigability is severely limited at the proposed site, and the use will provide a significant public benefit towards meeting SMA objectives, such as providing public access consistent with YMC 17.05.050 and ecological restoration; or
 4. That a nonwater-oriented use is physically separated from the shoreline by either a public right-of-way or a separate parcel.

C. Mixed-use buildings, as defined in YMC 17.03.070, may be allowed subject to compliance with all of the following criteria:

1. The project includes one or more water-dependent uses.
2. Water-dependent commercial uses as well as other water-oriented commercial uses have preferential locations along the shoreline.
3. The underlying zoning district permits residential uses together with commercial uses.
4. Public access is provided for substantial numbers of persons in accordance with YMC 17.05.050 and ecological restoration is provided as a public benefit. The shoreline administrator shall interpret substantial numbers of persons consistent with the Act, SMP Guidelines, and shorelines hearings board cases.
5. Residential uses meet requirements of YMC 17.07.130.

D. If required by YMC 17.05.050, commercial and community services uses shall be designed to facilitate public access to and enjoyment of nearby shoreline areas.

E. Nonwater-oriented commercial uses shall not be allowed over water in any shoreline environment unless they are accessory to and support water-dependent uses. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.050 Dredging and dredge material disposal.

A. Siting and Design. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

B. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts, and impacts which cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions. Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use.

C. Dredging shall be permitted for the following activities when significant ecological impacts are minimized and when mitigation is provided:

1. Establishment, expansion, relocation or reconfiguration of navigation channels and basins where necessary for assuring safe and efficient accommodation of existing navigational uses.
2. Maintenance dredging of established navigation channels and basins, provided dredging is restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
3. Development, expansion and maintenance of essential public facilities when there are no feasible alternatives.
4. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
5. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
6. Reduction of flood hazards.

D. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.

- E. Use of dredged material for the purpose of ecological restoration is encouraged.
- F. Disposal of dredge material on shorelands or wetlands within a river's channel migration zone is discouraged. In the limited instances where it is allowed, such disposal requires a shoreline conditional use permit. This provision is not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geohydrologic character of the channel migration zone.
- G. Hydraulic dredging (see definition in YMC 17.01.090) or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging.
- H. Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials.
- I. Dredge spoils are also considered fill, and shall not be deposited within ~~the stream~~ [waterbody](#) except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.
- J. The city may approve five-year management plans addressing maintenance dredging, use of best management practices, and other measures to assure no net loss of shoreline ecological functions.
- K. All applications for shoreline permits that include dredging shall supply a dredging plan that includes the following information:
1. The quantity of material to be removed.
 2. The method of removal.
 3. Location of spoil disposal sites and measures that will be taken to protect the environment around them.
 4. Plans for the protection and restoration of the shoreline environment during and after dredging operations.
- L. A dredging operation judged by the administrator to be insufficient for protection or restoration of the shoreline environment shall cause denial of a shoreline permit. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.060 Fill.

- A. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions shall be mitigated.
- B. Permissible fill in sensitive areas, including fill within wetlands, floodways, channel migration zones, or waterward of the OHWM, shall only be permitted in limited instances for the following purposes and when other required state or federal permits have been obtained, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this SMP, such as:
1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;
 2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see YMC 17.07.050 of this SMP);
 3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
 4. Ecological restoration or enhancement when consistent with an approved restoration plan;

5. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and YMC 17.05.060, Flood hazard reduction;
6. Protection of cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with the Yakama Nation and comply with applicable provisions of YMC 17.05.010 of this SMP.

All fills waterward of the OHWM not associated with ecological restoration, flood control or approved shoreline stabilization shall require a shoreline conditional use permit.

C. Permissible Upland Fill. All other upland fill is permitted, provided it:

1. Is conducted outside applicable buffers, unless specifically allowed in buffers;
2. Is part of an approved shoreline use or modification, or is necessary to provide protection to cultural or historic resources;
3. Is the minimum necessary to implement the approved use or modification;
4. Is planned to fit the topography so that minimum alterations of natural conditions will be necessary;
5. Does not adversely affect hydrologic conditions or increase the risk of slope failure; and
6. Is consistent with applicable provisions of Chapter 17.09 YMC, particularly regulations governing floodways and one-hundred-year floodplains.

D. Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the shoreline area. Other alternatives shall be preferred over fill to elevate new structures in the floodplain, such as use of pile or pier supports, posts, columns, other zero-rise methods, or increasing foundation height.

E. Unless site characteristics dictate otherwise, fill material within aquatic fish and wildlife habitat conservation areas ~~surface waters or wetlands~~ shall be sand, gravel, rock, or other clean material obtained from a state-certified source, with a minimum potential to degrade water quality and meeting the specifications included in project plans approved by local, state and federal review agencies.

F. Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.

G. Erosion Control. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the Stormwater Management Manual for Eastern Washington, or the most recent adopted stormwater manual, shall be provided for all proposed fill and excavation activities, and approved by the shoreline administrator prior to commencement of activity. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, hydroseed, or similar methods and revegetated, as applicable.

H. Projects that propose fill shall make every effort to acquire fill onsite (also known as compensatory storage) where appropriate.

I. Fill should not obstruct, cut off, or isolate aquatic fish and wildlife habitat conservation areas ~~stream corridor features~~. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.070 Industry.

The following provisions apply to any development, construction, or use of land for industrial purposes within shoreline jurisdiction:

A. Water-dependent uses shall be given preference over nonwater-dependent uses. Water-oriented industrial uses shall be given preference over nonwater-oriented uses.

B. Facilities and structures shall be designed and screened with vegetation to minimize degradation of shoreline aesthetic qualities.

C. The location, design, and construction of industrial uses and redevelopment are required to demonstrate no net loss of ecological functions and that significant adverse impacts to other shoreline resources and values are avoided. Industries which have proven to be environmentally hazardous are prohibited from locating along the shorelines provided such industries may be allowed consistent with the Shoreline Use and Modification Matrix (Table 03.070-1) if a hazard mitigation plan is approved by the shoreline administrator upon a finding that the plan would adequately mitigate hazards and provide for no net loss of ecological function. If the plan is found insufficient for protection of the shoreline environment, the shoreline administrator may require a third-party review of the hazard mitigation plan at the applicant's expense.

D. New industrial uses and redevelopment of industrial uses shall provide for environmental cleanup and restoration in degraded or contaminated locations.

E. Application for new industrial activities shall demonstrate either:

1. How the use qualifies as a water-oriented use and how facilities function as such; or
2. That a nonwater-oriented use is part of a mixed-use development that includes a water-dependent use; or
3. Navigability is severely limited at the proposed site and the use will provide a significant public benefit towards meeting SMA objectives, such as providing public access and ecological restoration; or
4. That a nonwater-oriented use is physically separated from the shoreline by either a public right-of-way or a separate parcel.

F. New or expanded industrial developments shall be required to make adequate provisions for public and private visual and physical shoreline access unless such a requirement would interfere with operations or create hazards to life or property or another exception is met consistent with YMC 17.05.050. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.080 In-water structures.

A. Prohibited and Allowed Projects. Projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, result in a net loss of ecological functions, or result in high flood stages and velocities are prohibited. Structures waterward of the ordinary high-water mark allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

B. Soil Stabilization. Upland cut-and-fill slopes and back-filled areas resulting from installation of in-water structures shall be stabilized with bioengineering approaches, including but not limited to brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes. In order to ensure soil stabilization, revegetation must include native shrubs or trees and may not be limited to native grasses.

C. Water Quality. In-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The city shall require conditions to achieve this objective.

D. Prohibited Structures. In-water structures may not utilize components other than those designed expressly for the approved in-water use.

E. Natural Features. Natural in-water features, such as snags, uprooted trees, or stumps, shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety.

F. Protect Functions, Processes and Cultural Resources. In-water structures shall provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-water structures shall give due consideration to the full range of public

interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

G. Design. In-water structures shall be designed by a qualified professional as determined by the shoreline administrator. In-water structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided channels. In-water structures shall not be a safety hazard or obstruct water navigation as determined by the shoreline administrator.

H. Permits. Construction of in-water structures may not commence without having obtained all applicable federal, state, and local permits and approvals.

I. Public Access. Design of in-water structures by public entities, including the city, other local governments, state and federal agencies, and public utility districts, shall include access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, in-water structures should not decrease public access or use potential of shorelines. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.090 Mining.

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

A. Prior to the authorization of a commercial mining operation, the project proponent shall provide maps to scale which illustrate the following:

1. The extent to which excavation and processing will affect or modify existing fish and wildlife habitat conservation areas~~stream corridor features~~, including existing riparian vegetation;
2. The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation;
3. The description, location, and extent of any proposed subsequent use that would be different than existing uses.

B. The operations and any subsequent use or uses shall not cause permanent impairment or loss of critical area functions and values~~floodwater storage, wetland, or other stream corridor features~~. Mitigation shall be provided consistent with YMC 17.09.010(I), 17.09.030(P), or 17.09.040(F) 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. Except where authorized by the city in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:

1. The excavation zone shall be located a minimum of one hundred feet upland from the ordinary high water mark (OHWM) of the stream channel~~waterbody~~.
2. Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM.
3. Washing, crushing, screening, or stockpiling of mined materials shall not occur within one hundred feet of the OHWM.

D. Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (Chapter 332-18 WAC, Chapter 78.44 RCW).

E. Additional Shoreline Standards for Industrial Mining.

1. Applicants shall submit a mining and reclamation plan to the shoreline administrator describing the proposed site, quantity of material to be removed, method of removal, and measures that will be taken to protect lakes and streams from siltation and sedimentation. A surface mining plan or a reclamation plan judged by the shoreline administrator to be insufficient for protection or restoration of the shoreline environment shall cause denial of a shoreline permit.
2. Mining stockpiles shall be sited in such a manner so as to avoid damage or loss resulting from flooding.
3. New mining and associated activities shall assure that proposed subsequent use of the mined property is consistent with the provisions of the environment designation and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.100 Recreational development.

The following provisions apply to any development, construction, or use of land or water for recreational purposes within shoreline jurisdiction, whether public or commercial:

- A. Recreational activities must be compatible with existing or proposed uses in the area and must not create a noise, traffic, visual or similar problem.
- B. The location, design, and operation of recreational facilities shall be consistent with the purpose of the environmental designation.
- C. Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access to recreational areas should emphasize both consolidated park or open space areas and trail access. Linkage of shoreline parks and public access points by means of linear access should be encouraged.
- D. Different uses within a specific recreational facility must be compatible with each other.
- E. Commercial components of the use that are not explicitly related to the recreational operation must also conform to the commercial use standards of YMC 17.07.040 (Commercial and service development).
- F. Recreational development shall demonstrate achievement of no net loss of ecological functions.
- G. Applicants may apply for a multiyear recreation maintenance plan for exempt and nonexempt repair and maintenance activities consistent with YMC 17.07.170. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.110 Residential development.

The following provisions apply to any development, construction, or use of land for residential purposes within shoreline jurisdiction:

- A. New multiunit development, plats or subdivisions containing land adjacent to publicly owned or controlled bodies of water shall allow for pedestrian access to such waterbodies for residents and the public consistent with YMC 17.05.050.
- B. Residential development and preliminary plats shall contain plans indicating how shoreline vegetation will be preserved and erosion controlled. A vegetation protection and/or erosion control plan shall demonstrate adequate protection of vegetation and avoidance of soil erosion. If the plan is found insufficient for protection of the shoreline environment the shoreline administrator may require a third-party review at the applicant's expense.
- C. Applications for new shoreline residences shall ensure that shoreline stabilization and flood control structures are not necessary to protect proposed residences. A geotechnical analysis (see definition in YMC 17.01.090) shall be provided to demonstrate that such structures are unnecessary to protect proposed residences; this study may be waived by the shoreline administrator if a study or information provided by the USACE, FEMA, Ecology, or other agency exists and provides sufficient information to conclude that shoreline stabilization and flood control structures are not necessary.

- D. New floating residences and over-water residential structures shall be prohibited in shoreline jurisdiction.
- E. Private lake owners or homeowners' associations may apply for a multiyear residential maintenance plan for exempt and nonexempt repair and maintenance activities consistent with YMC 17.07.170.
- F. Single-family residences identified as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.120 Shoreline habitat and natural systems enhancement projects.

- A. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling; provided, that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This section does not apply to mitigation.
- B. Approved Plan. Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.
- C. Protect Adjacent Resources. All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
- D. Maintenance and Monitoring. Long-term maintenance and monitoring (minimum of three years, but preferably longer) shall be arranged by the project applicant and included in restoration or enhancement proposals.
- E. Adverse Effects. Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no significant adverse changes to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
- F. Use of Best Information and BMPs. Shoreline restoration and enhancement projects shall be designed using the [best available most current, accurate and complete](#) scientific and technical information, and implemented using best management practices.
- G. Public Use of Waters and Lands. Shoreline restoration and enhancement shall not interfere with lands or waters dedicated specifically for public use, as determined by the shoreline administrator, without appropriate mitigation. For projects on state-owned aquatic lands, project proponents must coordinate with the Washington Department of Natural Resources to ensure the project will be appropriately located prior to the solicitation of permits from regulatory agencies.
- H. Relief for OHWM Shifts. Applicants seeking to perform restoration projects are advised to work with the city to assess whether and how the proposed project is allowed relief under RCW 90.58.580 [and WAC 173-27-215](#), in the event that the project shifts the OHWM landward. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.130 Shoreline stabilization.

- A. Shoreline stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, uses or facilities, and which stabilization will not jeopardize other upstream or downstream properties. A geotechnical analysis must estimate time frames and rates of erosion and report on the urgency associated with the specific situation. New hard shoreline stabilization solutions to protect primary structures shall not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

- B. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics.
- C. Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise.
- D. Stabilization projects shall be limited in size to the minimum protective measures necessary, and shall use measures designed to assure no net loss of shoreline ecological functions and avoidance and minimization of impacts to sediment transport processes. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
- E. The use of fill to restore lost land may accompany stabilization work, provided the resultant shore does not extend beyond the original ordinary high water mark, finished grades are consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with YMC 17.07.060 (Fill).
- F. Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects.
- G. Shoreline stabilization measures shall be designed, located, and constructed in such a manner as to minimize the disruption of natural channel characteristics.
- H. Required geotechnical reports shall meet the provisions of the definition provided in YMC 17.01.090.
- I. Demonstration of Necessity. New structural shoreline stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
1. New or enlarged structural stabilization measures to protect an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shore stabilization.
 2. Erosion control structures in support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
 - a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - b. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents and waves.
 3. Erosion control structures in support of water-dependent development when all of the conditions below apply:
 - a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - b. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

4. Erosion control structures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to the Model Toxics Control Act (Chapter 70.105D RCW) shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that demonstrates that nonstructural measures such as planting vegetation, or installing on-site drainage improvements, is not feasible or not sufficient.

J. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion. For purposes of this section, “replacement” means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

K. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shore stabilization structure.

L. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.140 Signs.

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

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

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

D. The shoreline administrator may condition signage regarding size, illumination, and placement, to ensure that signage is compatible with adjacent shoreline environments and does not:

1. Significantly (see definition in YMC 17.01.090) obstruct visual access to the water from public lands or a substantial number of residences per YMC 17.03.080, Development standards, and shorelines hearings board case law; or
2. Impair scenic vistas to the Yakima Greenway or Naches River or associated lakes; or
3. Impair driver vision such as due to lines of sight, type or frequency of lighting, or other feature that has the potential to result in safety concerns. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.150 Transportation and parking.

The following provisions shall apply to the location and construction of roads; railroads; bridges; water crossings; pedestrian, bicycle, and public transportation; and parking within shorelines, where appropriate:

A. Transportation and parking activities consistent with exemptions in YMC 17.13.050 are exempt from the requirement to obtain a shoreline substantial development permit, but shall meet applicable provisions of this master program. Applicants may apply for a multiyear transportation maintenance plan for exempt and nonexempt repair and maintenance activities consistent with YMC 17.07.170.

B. New or expanded transportation and parking facilities must be designed and located where they will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions, and will not adversely impact existing or planned water-dependent uses.

C. New or expanded 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. Applications for new or expanded roads and railroads shall demonstrate through engineering studies that a shoreline location is the most feasible of the available options.

1. Construction of roadways or railroads across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
2. Roadways or railroads that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.
3. Roadways or railroads within the stream corridor shall not hydrologically obstruct, cut off or isolate stream corridor features.

D. 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 corridor if it contains material unsuited to the current construction project. Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor.

E. Bridges, water-crossing structures, or necessary fill to elevate roadways shall not constrict the stream channel; impede the normal flow of floodwaters, sediment, and woody debris; or cause displacement that would increase the elevation of floodwaters such that it would cause properties not in the floodplain to be flood-prone.

F. Natural stream channels and drainage ways shall be preserved through the use of bridges for crossings, unless the use of culverts is demonstrated to be the only technically feasible means for crossing. The use of bridges shall be the preferred means to preserve natural streams and drainageways. Where bridges are not feasible, large, natural bottom culverts; multi-plate pipes; and bottomless arches shall be used, and shall be designed consistent with the latest guidance from the Washington Department of Fish and Wildlife.

G. Roads and bridges within floodways must meet flood hazard regulations of YMC 17.09.020.

H. Parking. The standards in this section only apply to new or expanded uses within shoreline jurisdiction.

1. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use consistent with the use matrix and definitions in YMC 17.03.070 and 17.01.090, respectively.
2. Parking areas shall be located upland of the areas they serve, unless:
 - a. A location waterward is required to meet Americans with Disabilities Act requirements, or
 - b. No other feasible location upland of the area served is possible due to topographical or other physical constraints.
 - c. In the above cases in subsections (H)(2)(a) and (H)(2)(b) of this section, parking shall be located as far upland from the OHWM as feasible, recognizing the limited supply of shoreline areas.
3. Proposals for new or expanded parking facilities shall minimize environmental and visual impacts of parking facilities through compliance with Chapter 17.05 YMC, General Regulations, Chapter 17.09 YMC, Critical Areas in Shoreline Jurisdiction, and applicable city zoning standards addressing lighting and landscaping. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.160 Utilities.

The following provisions shall apply to the location, construction, or installation of utility transmission lines and facilities (such as those for wastewater, water, communication, natural gas, etc.) within shoreline jurisdiction:

A. Utilities activities consistent with exemptions in YMC 17.13.050 are exempt from the requirement to obtain a shoreline substantial development permit, but shall meet applicable provisions of this master program. Applicants may apply for a multiyear utilities maintenance plan for exempt and nonexempt repair and maintenance activities consistent with YMC 17.07.170.

B. New or expanded nonwater-oriented utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented, shall not be allowed in shoreline jurisdiction unless it can be demonstrated that:

1. No other feasible option is available; or
2. The new location is necessary due to channel migration or levee setback; or
3. The facilities are being added or improved to meet federal or state mandates.

C. Utility transmission lines and facilities shall be permitted within the stream corridor only where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor. For example, lines and facilities that are essential public facilities (e.g., regional sewer facilities) that must cross the stream are permitted.

1. Utility transmission lines and facilities across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
2. The construction of utility transmission lines and facilities within a stream corridor shall be designed and located to ensure minimum disruption to the functional properties specified under YMC 17.09.030.

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 sufficient depth below the bankfull depth of the waterway, associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis.

F. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems. Wherever possible, new aboveground installations shall use available, existing bridge and utility locations and stream corridor crossings as opposed to creating new locations and stream corridor crossings.

G. Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical.

H. Transmission support structures shall be located clear of high flood velocities, located in areas of minimum flood depth which require the least floodproofing, and shall be adequately floodproofed.

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 17.09.020, Flood hazard areas.

K. Utility transmission lines within the floodway fringe or floodway shall meet the standards of YMC 17.09.020, Flood hazard areas.

L. Utility services to individual projects undergoing shoreline review, including those where the primary use may be in a different shoreline environment than the utility service, shall not require separate substantial development permits for utility service installations, but are subject to all of the provisions in this section, except those listed below. Utility service to projects outside shoreline jurisdiction is subject to normal shoreline permitting, and is subject to all of the provisions in this section, except those listed below.

1. Where feasible, utilities shall be placed underground unless such undergrounding would be economically or technically prohibitive.

2. New utility facilities shall be designed and located to preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses, especially recreation, residential and public access.
3. Expansion, updating, and maintenance of existing facilities is allowed, but shall be designed to be located to avoid adverse impacts and achieve no net loss of ecological function to shoreline resources as much as possible.
4. The presence of existing utilities shall not justify more intense development beyond levels planned in the comprehensive plan or zoning.
5. Permit applications shall meet the following submittal review standards:
 - a. Applications shall submit studies (social, economic, environmental, engineering, etc.) to demonstrate that a shoreline location is the most feasible of the available options.
 - b. Applications to locate transmission lines shall submit a location plan that shows existing utility routes in the vicinity of the proposed transmission line. Failure of utility lines to follow existing routes, where feasible, shall cause denial of the application.
 - c. Applications shall include a reclamation plan that provides for revegetation and protection of shoreline areas from erosion and siltation. A revegetation or erosion protection plan shall demonstrate adequate protection of vegetation and avoidance of soil erosion. If the plan is found insufficient for protection of the shoreline environment, the shoreline administrator may require a third-party review at the applicant's expense. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.07.170 Redevelopment, repair, and maintenance.

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; clarifies how SMP standards proportionally apply to redevelopment activities; and provides a process for multiyear management plans for maintenance and repair.

- A. SMP provisions shall not apply retroactively to existing uses and developments.
- B. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair, as specified in YMC 17.01.090, is exempt from a shoreline substantial development permit, but not the standards of the SMP.
- C. Consistent with the applicability provisions of YMC 17.01.020, SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:
 1. The shoreline administrator shall determine the extent of compliance with SMP provisions.
 2. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply. If vegetation is removed beyond normal maintenance pursuant to YMC 17.05.030, vegetation conservation and shoreline buffer standards may apply.
- D. In order to provide consistent interpretation of SMP exemptions, streamline permitting, determine applicable SMP standards regarding maintenance or repair activities, apply best management practices or protocols to ensure no net loss of shoreline ecological function, and identify the need for notification of activities, the city may approve multiyear programmatic shoreline exemptions consistent with specific exempt activities allowed in YMC 17.13.050 for the following types of uses and modifications.
 1. Dredging.
 2. Private development and facilities on private lakes.
 3. Public parks and recreation.

4. Transportation facilities.
5. Utility facilities, including but not limited to wastewater and water systems.

E. Applicants for multiyear maintenance plans shall provide the following information for consideration by the shoreline administrator:

1. Description of proposed maintenance activities and best management practices;
2. Type, methods, and frequency of maintenance or repair activities;
3. Length of requested multiyear maintenance plan. Multiyear maintenance approval should not exceed five years, except where expressly allowed in this master program;
4. Specification of which activities the applicant will regularly notice the city or which do not require advanced notice;
5. Description of aquatic habitat protection measures and any applicable permits received for that work;
6. Description of riparian and wetland protection measures and any applicable permits received for that work;
7. Description of stormwater management practices to reduce both water quantity and water quality impacts and any applicable permits received for that work;
8. Description of erosion and sediment control practices that prevent off-site movement;
9. Description of revegetation or restoration activities following maintenance or repair;
10. Description of chemical and nutrient use and containment practices such as Integrated Pest Management (IPM); and
11. Description of compliance with use-specific criteria in subsections F to J of this section.

F. Dredging. Applications for dredging maintenance plans shall demonstrate compliance with regulations in YMC 17.07.050.

G. Private Development and Facilities on Private Lakes.

1. A multiyear maintenance plan for private development and facilities on private lakes shall be consistent with covenants, codes, and restrictions of a property owners association, where such an association exists.
2. The applicable use or modification performance standards of this chapter shall be demonstrated to be met by applications for multiyear maintenance plans.

H. Public Parks and Recreation.

1. A multiyear maintenance plan for public parks and recreation facilities shall describe management objective or desired outcome for shoreline habitat and water quality topics stated in application criteria in subsections (E)(3) to (E)(9) of this section, specific performance requirements for each standard, and corrective actions that would be implemented if the performance requirement(s) is not met.
2. Applications for parks and recreation maintenance plans shall demonstrate compliance with regulations in YMC 17.07.100.

I. Transportation Facilities. Applications for transportation maintenance plans shall demonstrate compliance with regulations in YMC 17.07.150.

J. Utility Facilities. Applications for utility maintenance plans shall demonstrate compliance with regulations in YMC 17.07.160.

K. City Authorization of Multiyear Programmatic Maintenance Plans.

1. The city may approve multiyear programmatic maintenance plans that solely contain exempt activities consistent with the interpretation process of YMC 17.13.020, when consistent with the following criteria:

- a. The policies and procedures of the SMA;
- b. The provisions of Chapter 173-27 WAC;
- c. Chapter 10, Section 3 of the City of Yakima Comprehensive Plan; and
- d. This title.

2. The city may approve multiyear programmatic maintenance plans that include a combination of exempt and nonexempt activities. The permit process shall follow the permit process consistent with nonexempt activities pursuant to YMC 17.03.070, Shoreline use and modification matrix. The criteria for approval shall follow the applicable criteria for the permit type in Chapter 17.13 YMC, e.g., shoreline substantial development permit or shoreline conditional use permit.

3. The city may attach conditions to the approval of multiyear maintenance plans as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the city's ability to require compliance with all other applicable laws and plans. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

Chapter 17.09

CRITICAL AREAS IN SHORELINE JURISDICTION

Sections:

- 17.09.010 General provisions.
- 17.09.020 Flood hazard areas.
- 17.09.030 Fish and wildlife habitat conservation areas.
- 17.09.040 Wetlands.
- 17.09.050 Geologically hazardous areas.
- 17.09.060 Critical aquifer recharge areas.

17.09.010 General provisions.

A. 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 shoreline jurisdiction of the incorporated city of Yakima.

B. Intent of Chapter. This chapter establishes policies, standards, and other provisions pertaining to development within designated critical areas regulated under the provisions of the Growth Management Act (Chapter 36.70A RCW) and development regulated under the National Flood Insurance Program. Flood hazard areas, fish and wildlife habitat conservation areas, wetlands, geologically hazardous areas, and~~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 "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;
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 2040;
7. Implement the goals and requirements of the Washington Growth Management Act (Chapter 36.70A RCW), the Shoreline Management Act (Chapter 90.58 RCW), 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.

C. The policies, standards and procedures of this chapter are not intended to:

1. Regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective date of this chapter;
2. Result in an unconstitutional regulatory taking of private property;

3. Require the restoration of degraded critical areas for properties in a degraded condition prior to the effective date of this chapter unless improvement of the buffer is needed for new development proposed on the property;
4. Presume that regulatory tools are the only mechanism for protection; and
5. Prohibit the use of valid water rights.

D. Applicability. The provisions of this chapter shall apply to any new development, construction, or use within the incorporated portion of the city of Yakima's shoreline jurisdiction that is designated as a critical area and upon any land within shoreline jurisdiction that is mapped and designated as a special flood hazard area under the National Flood Insurance Program. However, this chapter does not apply to the situations below, except that the flood hazard protection provisions of YMC 17.09.020 will continue to apply as determined by YMC 17.09.020(A) through (G):

1. Within designated critical areas, there may exist lots, structures, and/or uses which were lawfully established prior to the adoption of this chapter, as provided below, but which would be subsequently prohibited, regulated, or restricted under this chapter. Such existing lots, structures, and/or uses shall be classified as legally nonconforming uses.
2. It is the intent of this chapter to permit these preexisting legally nonconforming uses and structures to continue until such time as conformity is possible:
 - a. 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;
 - b. Mining, as defined in YMC 17.01.090, as carried out under a Washington Department of Natural Resources reclamation permit, is not subject to the geologically hazardous areas provisions of this chapter for erosion hazard areas, over-steepened slope hazard areas, landslide hazard areas and suspected geologic hazard areas. Other critical areas provisions continue to apply.

E. Critical Area Development Authorization Required.

1. No new development, construction or use shall occur within a designated critical area without obtaining a development authorization in accordance with the provisions of this chapter, except for those provided for in subsection H of this section or YMC 17.13.050.
2. With respect to application and review procedures, it is the intent of this chapter to streamline and coordinate development authorization within a critical area and recognize other requirements by local, state and/or federal permits or authorizations. Development, construction or use occurring within a designated critical area shall be processed according to the provisions of this chapter, unless determined to be exempt.
3. Approval of a development authorization under this chapter shall be in addition to and not a substitute for any other development permit or authorization required by the city of Yakima. Approval of a development authorization under this chapter shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.
4. Development authorizations shall be issued in accordance with this chapter, the Shoreline Management Act, and permit procedures of Chapter 173-27 WAC.
5. Coordination with Other Jurisdictions.
 - a. Where all or a portion of a standard development project site is within a designated critical area and the project is subject to another local, state or federal development permit or authorization, the shoreline administrator shall determine whether the provisions of this chapter can be processed in conjunction with a local, state or federal development permit or authorization. The decision of the shoreline administrator shall be based upon the following criteria:

- i. The nature and scope of the project and the critical area features involved or potentially impacted;
 - ii. The purpose or objective of the permit or authorization and its relationship to protection of the critical area;
 - iii. The feasibility of coordinating the critical area development authorization with other permitting agency;
 - iv. The timing of the permit or authorization.
- b. If a determination has been made that provisions of this chapter can be handled in conjunction with another applicable development permit or authorization process, the shoreline administrator will not accept the development authorization and/or permits in place of a shoreline permit or critical area development authorization. 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 shoreline administrator's decision on the critical area development authorization shall be coordinated to coincide with other permits and authorizations.

INQUIRY AND EARLY ASSISTANCE

F. Critical Area Identification Form and Critical Area Report Requirements.

1. Prior to the review of any applicable proposed development, construction or use, the applicant shall provide the city with a critical areas identification form and site plan and any other information the city may require to determine if a critical area is present.
2. Upon receipt of a critical area identification form and site plan, the shoreline administrator or designee may conduct a site examination to review critical area conditions. The shoreline administrator or designee shall notify the property owner of the site examination prior to the site visit. Reasonable access to the site shall be provided by the property owner.
3. The shoreline administrator 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 subsections P and Q of this section, except as provided below:
 - a. No Critical Areas Present. If the shoreline administrator or designee is able to sufficiently determine a critical area does not exist within or adjacent to the project area and/or a critical area report is not required.
 - b. Critical Areas Present, But No Impact. If the shoreline administrator or designee is able to determine the existence, location and type of critical area and the project area is not within the critical area and/or the project will not have an indirect impact on the function of an adjacent wetland.
 - c. Critical Areas May Be Affected by a Proposal. The shoreline administrator or designee may waive the requirement for a critical areas report utilizing the technical expertise of other reviewing agencies if:
 - i. The shoreline administrator is sufficiently able to determine the existence, location and type of the critical area;
 - ii. The project scale or nature is such that a specialist is not necessary to identify impacts and mitigation; and
 - iii. The applicant agrees to provide mitigation the shoreline administrator deems adequate to mitigate for anticipated impacts.
4. Reports will generally fall into the following groups:
 - a. Determining the absence of a critical area;

- b. Determining the existence, location and type of a critical area;
- c. Determining impacts of an encroachment on a critical area and general mitigation measures; and
- d. Developing a compensatory mitigation plan.

G. Preapplication Conference. Any new development or use falling under the provisions of this chapter may be subject to a preapplication conference. Prior to the preapplication conference, the project proponent must submit a critical area identification form and preliminary site plan.

1. A project review for flood hazards shall follow the preapplication requirements established to administer YMC 17.09.020, Flood hazard areas.
2. The preapplication conference is intended to allow the shoreline administrator 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.

ABBREVIATED REVIEW ALTERNATIVES

H. Minor Activities Allowed Without a Critical Areas Permit. The project may require a shoreline permit or shoreline exemption under other provisions of this title. This chapter shall be inapplicable to the following actions:

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

- b. No area-wide vegetation removal/grubbing.

I. Mitigation Requirements.

1. All mitigation shall be sufficient to maintain the functions and values of the critical area;
2. All development shall demonstrate that reasonable efforts have been examined to avoid and minimize impacts to critical areas;
3. When an alteration to a critical area is proposed, it shall be avoided, minimized, or mitigated for as specified in YMC 17.05.020(D);
4. If an alteration to a critical area is unavoidable, all adverse impacts to that critical area and its buffers shall be mitigated for in accordance with an approved mitigation plan and mitigation for wetland impacts shall be mitigated in accordance with the Washington State Department of Ecology Wetland Mitigation in Washington State, Parts 1 and 2 (March 2006 or as updated); and
5. Mitigation shall be in kind and on site, whenever possible, and may be out of kind and/or off site when deemed appropriate by the shoreline administrator or designee.

REVIEW PROCESS

J. Application Submittal.

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

K. Determination of Review Process.

1. The shoreline administrator or designee shall determine from the application submittal and other available information what type of permit(s) and/or review(s) will be required under this chapter.
2. Specific information of permit type, review and process can be found in subsequent sections of this chapter and in Chapter 17.13 YMC.

L. Development Authorization—Review Procedure. Upon submittal and acceptance of a completed development authorization application, the shoreline administrator or designee shall process and review the application as follows, except permits or reviews under YMC 17.09.020 shall follow the development regulations and procedures of YMC 17.09.020.

1. Development authorizations shall be processed in accordance with statutory noticing requirements in YMC 17.13.030 and with specific requirements provided in Chapter 17.13 YMC, including but not limited to:

- a. Submittals;
- b. Completeness review;
- c. Notices;
- d. Hearings;
- e. Decisions; and
- f. Appeals.

2. In circumstances where a critical area is proposed to be altered, but the development otherwise requires only a shoreline exemption, the development must be reviewed and processed as a shoreline substantial development permit or a shoreline variance.

3. Development authorizations shall be reviewed in conformance with the applicable development standards of subsection R of this section and with YMC 17.09.030 through 17.09.060.

4. Decisions on a development authorization shall be consistent with subsections M and N of this section, and with any specific decision criteria provided under the section for each relevant permit type, as provided in Chapter 17.13 YMC and subsection R of this section.

M. Authorization Decisions—Basis for Action.

1. In addition to meeting the shoreline permit-specific criteria in Chapter 17.13 YMC, the action on any development authorization under this chapter shall also be based upon the following criteria:

- a. Impact of the project to critical area features on and abutting the property;
- b. Danger to life or property that would likely occur as a result of the project;
- c. Compatibility of the project with the critical area features;
- d. Conformance with applicable development standards;
- e. Compliance with flood hazard mitigation requirements of YMC 17.09.020;
- f. Adequacy of the information provided by the applicant or available to the department.

2. Based upon the project evaluation, the shoreline administrator shall take one of the following actions:

- a. Grant the development authorization;
- b. Grant the development authorization with conditions, as provided in subsection N of this section, to mitigate impacts to the critical area feature(s); or
- c. Deny the development authorization.

3. The decision by the shoreline administrator or designee shall include written findings and conclusions.

N. Conditional Approval of Development Authorization. In granting any development authorization, the shoreline administrator or designee may impose conditions to:

1. Accomplish the purpose and intent of this chapter;
2. Eliminate or mitigate any identified negative impacts of the project; and
3. Protect critical areas from damaging and incompatible development.

O. Fees and Charges. The Yakima city council shall establish the schedule of fees and charges listed in Chapter 15.26 YMC (Land Development Fees), for development authorizations, variances, appeals and other matters pertaining to this chapter.

CRITICAL AREAS REPORTS

P. Critical Areas Report Requirements.

1. The shoreline administrator or designee may require a critical areas report, paid for by the applicant, when it is determined necessary.
2. A qualified professional shall prepare the report consistent with most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be appropriate to the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.
3. The critical area report shall:
 - a. Demonstrate the proposal is consistent with the purposes and standards of this chapter;
 - b. Describe all potential risks to critical areas, and assess impacts on the critical area from the activities and uses proposed; and
 - c. Identify mitigation and protective measures.
4. The critical areas report shall include information addressing the supplemental report requirements (see subsection Q of this section).
5. The shoreline administrator or designee shall review the critical areas report for completeness and accuracy and shall consider the recommendations and conclusions to assist in making decisions on development authorizations, appropriate mitigation, and protective measures.
6. Critical areas reports shall be valid for a period of five years, unless it can be demonstrated that a previous report is adequate for current analysis. Reports prepared for adjacent properties may be utilized for current analysis only when it can be shown through a supplemental report or site investigation that conditions on site are unchanged.
7. The shoreline administrator or designee may require the preparation of a new critical area assessment or a supplemental report if the initial assessment is in error.
8. The shoreline administrator or designee may reject or request revision of the critical areas report when it can be demonstrated that the assessment is inaccurate, incomplete or does not fully address the critical areas impacts involved.
9. Applicants shall provide reports and maps to the city in both electronic and paper formats. In addition, all critical area delineations/maps shall be provided to the city by means of a GPS projected coordinate system data set as specified by the city of Yakima engineer. The city may waive this requirement for single-family developments. Applicants are encouraged to coordinate with the shoreline administrator or designee regarding electronic submittal guidelines.
10. At a minimum, a critical areas report shall include the following information:
 - a. A site plan showing the proposed development footprint and clearing limits, and all relevant critical areas and buffers;
 - b. A written summary of the critical areas, including their size, type, classification or rating, condition, disturbance history, and functions and values. For projects on or adjacent to geologically hazardous areas or

areas subject to high floodwater depth or velocity the description shall identify the type and characteristics of the hazard;

c. An analysis of potential adverse impacts and how they will be mitigated or avoided. 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;

d. When impacts cannot be avoided, the report shall include a plan describing mitigation to replace critical area functions and values. For projects on or adjacent to geologically hazardous areas or areas subject to high floodwater depth or velocity, the mitigation shall additionally address the site, and other public and private properties, and both associated and unassociated nearby facilities and uses potentially affected;

e. The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and

f. Additional reasonable information requested by the shoreline administrator or designee.

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

12. The shoreline administrator or designee may limit the geographic area of the critical area report as appropriate.

13. **Compensatory Mitigation Plans.** When compensatory mitigation, as described in subsection I of this section, is proposed for wetland areas or stream channels, the applicant shall submit a mitigation plan as part of the critical area report, which includes:

a. A written report identifying environmental goals and objectives of the proposed compensation including a description of:

- i. The anticipated impacts to the critical areas;
- ii. The mitigating actions proposed;
- iii. The purpose of the compensation measures, including site selection criteria;
- iv. The compensation goals and objectives;
- v. The desired resource functions;
- vi. Construction activities start and completion dates; and
- vii. Analysis of anticipated success of the compensation project;

b. A review of the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern supporting the proposed mitigation;

c. A description of the report and the author's experience to date in restoring or creating the type of critical area report proposed;

d. **Performance Standards.** The mitigation plan shall include measurable specific criteria for evaluating the goals and objectives to ensure the mitigation project has been successfully attained;

e. **Detailed Construction Documents.** The mitigation documents shall include written specifications and plans describing the mitigation proposed, such as:

- i. The proposed construction sequence, timing, and duration;

- ii. Grading and excavation details;
 - iii. Erosion and sediment control features;
 - iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density;
 - v. Measures to protect and maintain plants until established; and
 - vi. Documents should include scale drawings showing necessary information to convey both existing and proposed topographic data, slope, elevations, plants and project limits;
 - f. Monitoring Program. The mitigation plan shall include:
 - i. A program for monitoring both construction of the compensatory project and its completion and survivability;
 - ii. A plan which details how the monitoring data will be evaluated to determine if the performance standards are being met;
 - iii. Reports as needed to document milestones, successes, problems, and contingency actions of the compensation project; and
 - iv. Monitoring for a period necessary to establish that performance standards have been met, but not for a period less than five years;
 - g. Contingency Plan. Identification of the potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met;
 - h. Financial Guarantees. A financial guarantee ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with subsection (R)(1) of this section.
14. Innovative Mitigation.
- a. 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:
 - i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
 - ii. The applicant demonstrates the organizational and fiscal capability to act cooperatively;
 - iii. The applicant demonstrates that long-term management of the habitat area will be provided;
 - iv. There is a clear potential for success of the proposed mitigation at the identified site;
 - v. There is a clear likelihood for success of the proposed plan based on supporting scientific information and demonstrated experience in implementing similar plans;
 - vi. The proposed project results in equal or greater protection and conservation of critical areas than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;
 - vii. The plan is consistent with the general purpose and intent of this section;
 - viii. The plan shall contain relevant management strategies which are within the scope of this section; and

- ix. The plan shall contain clear and measurable standards for achieving compliance with the purposes of this section, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
- b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required wetland replacement ratios.
- c. Projects that propose compensatory wetland mitigation shall also use the standards in YMC 17.09.040(E). For those situations where a mitigation bank may provide an opportunity for mitigation, the requirements in YMC 17.09.040(F) shall apply.

Q. Supplemental Report Requirements for Specific Critical Areas.

1. Fish and Wildlife Habitat Conservation Areas~~Stream Corridors~~. When a critical areas report is required for a fish and wildlife habitat conservation area~~stream-corridor or hydrologically related critical area~~, it shall include the following:
 - a. A habitat and native vegetation conservation strategy that addresses methods to protect the functional properties listed in YMC 17.09.030(E); ~~and~~
 - b. Where proposed construction lies within an immediate zone of potential channel migration, a hydrologic analysis report may be required. The report shall assume the conditions of the one-hundred-year flood, include on-site investigative findings, and consider historical meander characteristics in addition to other pertinent facts and data; ~~And~~
c. A discussion of any federal, state or local management recommendations which have been developed for the species or habitats in the area, and how they will be incorporated into the project.
2. Wetlands. When a critical areas report is required for wetlands, it shall include the following:
 - a. The exact location of a wetland's boundary and wetland rating as determined through the performance of a field investigation by a qualified wetland professional applying the approved federal wetland delineation manual and applicable regional supplements and the Washington State Wetland Rating System for Eastern Washington, revised October 2014 ~~March 2007~~ (Ecology Publication Number 14-06-030~~04-06-15~~, or as revised);
 - b. 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;
 - c. An analysis of the wetlands including the following site related information:
 - i. A statement specifying the accuracy of the report and all assumptions made and relied upon;
 - ii. Documentation of fieldwork performed on the site, including field data sheets for delineations, wetland rating forms, baseline hydrologic data, etc.;
 - iii. A description of the methodologies used to conduct the wetland delineations, or impact analyses including references; and
 - iv. Wetland category, including vegetative, faunal, and hydrologic characteristics;
 - d. For projects that will affect the wetland or buffer, provide the following:
 - i. A habitat and native vegetation conservation strategy that addresses methods to protect or enhance on-site habitat and wetland functions and values listed in YMC 17.09.040(D)(1) and 17.09.030(E); and

- ii. Mitigation sequencing, pursuant to YMC 17.05.020(D) 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 17.09.040(E).
- 3. Geologically Hazardous Areas. When a critical areas report is required for a geologically hazardous area, it shall include the following:
 - a. A description of the site features, including surface and subsurface geology;
 - b. A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any suspected and risk unknown hazards identified in the affirmative determination of hazard;
 - c. A description of the vulnerability of the site to seismic and other geologic processes and hazards; and
 - d. A description of any potential hazards that could be created or exacerbated as a result of site development;
 - e. For developments in or affecting landslide hazard areas the report shall also include:
 - i. Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading and shall use a minimum horizontal acceleration as established by the current version of YMC Title 11 (Buildings);
 - ii. An analysis of slope recession rate shall be presented in those cases where stability is impacted by stream meandering or other forces acting on the toe of the slope; and
 - iii. Description of the run-out hazard of landslide debris to the proposed development that starts upslope and/or the impacts of landslide run-out on downslope properties and critical areas.
- 4. Flood Hazards. Prior to authorization of any construction within a floodplain which can be anticipated to displace floodwaters or alter the depth or velocity of floodwaters during the base flood, an engineering report shall be prepared by a licensed engineer in the state of Washington that establishes any new flood elevations that would result for the one-hundred-year flood frequency if the project were implemented.

5. Critical Aquifer Recharge Areas. The approach of the city critical area regulations is to require a level of study and analysis commensurate with potential risks to wellhead protection zones associated with particular sites and particular proposals. At a minimum, all applicants shall review the history of the site and conduct a surface reconnaissance. The purpose of a critical aquifer recharge area report is to evaluate the actual geologic conditions and determine the site's proximity to or location within a wellhead protection zone; evaluate the safety and appropriateness of proposed activities; and recommend appropriate construction practices, monitoring programs, and other mitigation measures required to ensure achievement of the purpose and intent of these regulations. The information required by this report should be coordinated with the study and reporting requirements for any other critical areas located on the site. A critical aquifer recharge area report shall be prepared by a qualified professional who is a hydrogeologist, geologist, or engineer who is licensed in the state of Washington and who has experience in preparing hydrogeologic assessments.

- a. Level One Hydrological Assessment. At sites located within Wellhead Protection Zones 1 through 3, defined in YMC 17.09.060(C)(1), a critical aquifer recharge areas report shall contain a level one hydrological assessment which includes the following site- and proposal-related information at a minimum:
 - i. Information regarding geologic and hydrogeologic characteristics of the site, including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone based on existing data.

- ii. Groundwater depth, flow direction, and gradient based on available information.
 - iii. Currently available data on wells and springs within one thousand three hundred feet of the project area.
 - iv. Location of other critical areas, including surface waters, within one thousand three hundred feet of the project site.
 - v. Available historic water quality data for the area to be affected by the proposed activity.
 - vi. BMPs proposed to be utilized.
 - b. Level Two Hydrogeologic Assessment.
 - i. A level two hydrogeologic assessment shall be required for any of the following proposed activities at sites located within Wellhead Protection Zones 1 through 3:
 - (a) Activities that result in five thousand square feet or more impervious site area.
 - (b) Activities that divert, alter, or reduce the flow of surface or groundwaters, including dewatering or otherwise reduce the recharging of the aquifer.
 - (c) The storage, handling, treatment, use, production, recycling, or disposal of deleterious substances or hazardous materials, other than household chemicals used according to the directions specified on the packaging for domestic applications.
 - (d) The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than fourteen thousand five hundred gallons of effluent per day and that are limited to a maximum density of one system per one acre.
 - (e) Any other activity determined by the director of community development likely to have an adverse impact on groundwater quality or quantity, or on the recharge of the aquifer.
 - ii. A level two hydrogeologic assessment shall include the following site and proposal-related information at a minimum, in addition to the requirements for a level one hydrogeological assessment:
 - (a) Historic water quality and elevation data for the area to be affected by the proposed activity compiled for at least the previous five-year period.
 - (b) Groundwater monitoring plan provisions.
 - (c) Discussion of the effects of the proposed project on the groundwater quality and quantity, including:
 - (a) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features.
 - (b) Predictive evaluation of contaminant transport based on potential releases to groundwater.
 - (d) Identification of the type and quantities of any deleterious substances or hazardous materials that will be stored, handled, treated, used, produced, recycled, or disposed of on the site, including but not limited to materials, such as elevator lift/hydraulic fluid, hazardous materials used during construction, materials used by the building occupants, proposed storage and manufacturing uses, etc.
 - (e) Proposed methods of storing any of the above substances, including containment methods to be used during construction and/or use of the proposed facility.

(f) Proposed plan for implementing YMC 17.09.060(C)(3)(d)(vi), Protection Standards during Construction.

(g) A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

(h) A complete discussion of past environmental investigations, sampling, spills, or incidents that may have resulted in or contributed to contaminated soil or groundwater at the site. Attach copies of all historical and current reports, and sampling results.

R. General Critical Areas Protective Measures. The standards below apply to all permits and reviews performed under this chapter.

1. Financial Guarantees. Financial guarantees may be required to ensure mitigation, maintenance, and monitoring:

a. When required mitigation pursuant to a development proposal is not completed prior to the city of Yakima's final permit approval, the shoreline administrator or designee may require the applicant to post a financial guarantee to ensure that the work will be completed.

b. If a development proposal is subject to compensatory mitigation, the applicant must post a financial guarantee to ensure mitigation is fully functional.

c. All financial guarantees shall be in the amount of one hundred and twenty-five percent of the estimated cost of the uncompleted actions and/or the estimated cost of restoring the functions and values of the critical area that are at risk.

d. The financial guarantee may be in the form of a surety bond, performance bond, assignment of savings account, irrevocable letter of credit guaranteed by an acceptable financial institution, or other form acceptable to the shoreline administrator or designee, with terms and conditions acceptable to the city of Yakima attorney.

e. The financial guarantee shall remain in effect until the shoreline administrator 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.

f. If public funds have previously been committed for mitigation, maintenance, monitoring, or restoration, a financial guarantee will not be required.

g. Failure to satisfy critical area requirements shall constitute a default, and the shoreline administrator and his or her designee may demand payment of any financial guarantee.

h. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Such funds shall be deposited in a separate account. The city of Yakima will use such funds to arrange for completion of the project or mitigation, and follow-up corrective actions.

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

2. Subdivision Standards. The following standards apply to all permits or reviews under the subdivision ordinance (YMC Title 14) that contain critical areas:

a. All subdivisions that contain critical areas shall be eligible for density bonuses or other development incentives, as provided in the subdivision ordinance (YMC Title 14) and zoning ordinance (YMC Title 15);

- b. Critical areas shall be actively protected through the following:
 - i. Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible;
 - ii. When geologically hazardous areas (excluding erosion, over-steepened slopes of intermediate risk, stream undercutting, and earthquake hazards), FEMA floodway, channel migration zone (CMZ), streams, wetlands and/or vegetative buffers fall within the boundary of a subdivision;
 - (A) Said critical areas shall be protected by placing them entirely within a separate critical area tract or by including them entirely within one of the developable parcels. Other options, such as conservation easements and building envelopes, may be deemed appropriate by the shoreline administrator as meeting this provision when special circumstances obstruct the viability of this provision;
 - (B) For those new lots that do contain said critical areas, useable building envelopes (five thousand square feet or more for residential uses) shall be provided on the plat that lies outside said critical areas;
 - iii. New lots partially within the floodplain shall provide a usable building envelope (five thousand square feet or more for residential uses) outside the floodplain;
 - iv. New lots entirely within the floodplain shall be at least one acre in area;
 - v. For new lots containing streams, wetlands, and/or vegetative buffers, outdoor use envelopes shall be provided on the plat that lies outside said critical areas;
 - vi. Degraded vegetative buffers shall be restored or provided with protection measures that will allow them to recover;
 - vii. Floodplains and critical areas shall be depicted on preliminary subdivision plats and relevant information about them disclosed on the final plat;
 - viii. Lots or parcels that lie entirely within geologically hazardous areas (excluding erosion, over-steepened slopes of intermediate risk, stream undercutting, and earthquake hazards), FEMA floodway, channel migration zone (CMZ), stream, wetland, and/or vegetative buffers may not be further divided. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.09.020 Flood hazard areas.
GENERAL PROVISIONS

A. Flood Hazard Areas Established. The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA), accompanying flood insurance rate maps (FIRMs), flood boundary, and floodway maps, and any amendments thereto made by the Federal Emergency Management Agency, which are adopted by reference and declared to be part of this section and are established as flood hazard areas. The flood insurance study and maps are on file with the city of Yakima, Washington.

B. Principles. This section 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 this section is to:

1. Alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of flood-prone land;
2. Meet the minimum requirements of the National Flood Insurance Program; and
3. Implement state and federal flood protection programs.

C. **Applicability.** The guidelines and regulations set forth herein, YMC Title 11, and related building codes shall apply to all special flood hazard areas.

1. The provisions of this section shall apply to any development proposed in a special flood hazard area;
2. Flood hazard permits shall be approved by the city of Yakima. Approval shall only be granted in accordance with this section and other applicable local, state, and federal regulations;
3. Topographic, engineering and construction information necessary to evaluate the proposed project shall be submitted to the department for approval; and
4. The granting of a permit for any development or use does not constitute a representation, guarantee or warranty of any kind or nature by the city of Yakima, or its employees, of the practicality or safety of any structure or proposed use, and shall not create liability upon or cause action against the above-mentioned body, or employee, for any damage that may result.

D. **Documented Exemptions.** The following uses and activities are exempt from the provisions of this section, but are not exempt from this SMP (this title) or related shoreline permit requirements in Chapter 17.13 YMC:

1. Any alteration of building, site, structure, district, or object listed in, or determined to be eligible for listing in, the National Register of Historic Places, the Washington Heritage Register, the Yakima Register of Historic Places, or included in a state inventory of historic properties;
2. The installation and maintenance of aboveground utility transmission lines and poles; and
3. Private driveways, fences and other accessory activities and/or uses necessary for agricultural uses which the administrative official determines will not unduly decrease flood storage or capacity, significantly restrict floodwaters, create a substantial impoundment of debris carried by floodwaters, and will resist flotation and collapse.

E. **Interpretations.**

1. In the interpretation and application of this section, 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 YMC Title 11, Buildings; Title 12, Development Standards; Title 14, Subdivisions; and Title 15, Yakima Urban Area Zoning Ordinance. Subsections A through AG of this section are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where these ordinances and other ordinances conflict or overlap, the standard imposing the more stringent requirement shall prevail.
2. In an interpretation as to an exact location of the boundaries of the special flood hazard areas (i.e., conflict between a mapped boundary and actual field conditions), the person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of the National Flood Insurance Program Section 60.6 (see 44 CFR 59 et seq. and IBC 104.1).

F. **Compliance.** No structure or land shall hereafter be used, constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations.

G. **Warning and Disclaimer of Liability.** The degree of flood protection required by this section 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. This section does not imply that land outside the area of special flood hazard or permitted uses within such area will not be subject to flooding or flood damage.

PROTECTION STANDARDS

H. General Standards. The following regulations shall apply in all special flood hazard areas pursuant to the IBC, ASCE-24, and HUD 24 CFR Part 3280:

1. Anchoring and Construction Techniques.
 - a. All new construction and substantial improvements shall be:
 - i. Anchored to prevent flotation, collapse or lateral movement of the structure; and
 - ii. Constructed using materials and utility equipment resistant to flood damage; and
 - iii. Constructed using methods and practices that minimize flood damage; and
 - iv. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques). Anchoring shall meet the specifications set forth below for structures located within one hundred feet of a floodway or the ordinary high water mark if no floodway has been established.
 - c. All new construction and any improvements or additions to existing floodproofed structures that would extend beyond the existing floodproofing located within one hundred feet of the floodway or one hundred feet of the ordinary high water mark if no floodway has been established, shall be elevated to a height equal to or greater than the base flood, using zero-rise methods such as piers, posts, columns, or other methodology, unless it can be demonstrated that non-zero-rise construction methods will not impede the movement of floodwater or displace a significant volume of water. The size and spacing of any support devices used to achieve elevation shall be designed to penetrate bearing soil, and be sufficiently anchored, as specified above in subsection (H)(1)(a) of this section.
 - d. Except where otherwise authorized, all new construction and substantial improvements to existing structures shall require certification by a registered professional engineer, architect or surveyor that the design and construction standards are in accordance with adopted floodproofing techniques.
2. Utilities. All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
3. Subdivision Proposals. Subdivision proposals shall:
 - a. Be consistent with the need to minimize flood damage;
 - b. Have roadways, public utilities and other facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. Have adequate drainage provided to reduce exposure to flood damage;
 - d. Include base flood elevation data; and
 - e. In the cases where base flood elevation is not available and the subdivision is greater than five acres or fifty lots, a step-back water analysis shall be required to generate the base flood elevation data.
4. Watercourse Alterations. The flood-carrying capacity within altered or relocated portions of any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a watercourse in

riverine situations, the department shall notify adjacent communities, the Department of Ecology and FEMA of the proposed development.

I. Specific Standards. In all special flood hazard areas where base elevation data has been provided as set forth in subsection A of this section, the following regulations shall apply, in addition to the general standards of subsection H of this section:

1. Residential Construction. (See IRC 323.2.)
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at a minimum to or above the base flood elevation.
 - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - ii. The bottom of all openings shall be no higher than one foot above grade; and
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
 - c. Residential construction within one hundred feet of a floodway, or the ordinary high water mark if no floodway has been established, shall also meet the requirements of subsection (H)(1)(c) of this section.
2. 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:
 - a. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans; and
 - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (I)(1)(b) of this section.
3. Manufactured Homes. Manufactured homes shall be anchored in accordance with subsection (H)(1)(b) of this section, shall have the lowest floor elevated to or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with subsection (H)(1)(b) of this section.
4. Recreational Vehicles. Recreational vehicles placed on sites are required to either:
 - a. Be on the site for fewer than one hundred eighty consecutive days;
 - b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

- c. Meet the anchoring requirements of subsection (H)(1)(b) of this section.

FLOODWAY FRINGE USES

J. Permitted Uses. The following uses are permitted in the floodway fringe areas:

1. Permitted Uses. Any use permitted in the zoning district in accordance with YMC Title 15 and in the environment designation in accordance with this title, unless prohibited by subsection K of this section; that said use is in compliance with the flood hazard protection standards of subsection H of this section and other applicable provisions of this title and will have a negligible effect upon the floodway in accordance with the floodway encroachment provisions of subsection (J)(2) of this section.
2. All new encroachments, including fill, new construction and other development, if 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 upland of the established floodway fringe, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge.
3. All new encroachments, including fill, new construction and other development if:
 - a. The new encroachment is separated from the waterbody by an existing public roadway or legal development.
 - b. The new encroachment is located in a residential zone with a density of greater than one unit per acre.
4. Utility Transmission Lines. Utility transmission lines shall be permitted when consistent with YMC Title 15 and where not otherwise inconsistent with this section; except that when the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area, such transmission line shall conform to the following:
 - a. Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high floodwater velocity and/or depth areas, and shall be adequately floodproofed.
 - b. Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of YMC 17.05.060(C)(3)(c).
 - c. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and nonhazardous materials shall be buried below existing natural and artificial drainage features.
 - d. Aboveground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of nonhazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity or passage. Such lines shall be adequately protected from flood damage.
 - e. Aboveground utility transmission line appurtenant structures, including valves, pumping stations or other control facilities, shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available, or in the event a floodway fringe or special flood hazard location is environmentally preferable. 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.

5. Any use permitted in the zoning district in accordance with YMC Title 15, unless prohibited by YMC subsections (J)(1) through (4) of this section may be permitted if a critical areas report is prepared by a qualified individual, in accordance with this title, that addresses whether the encroachment would have an adverse impact on fish and wildlife and/or floodplain functions.

K. Prohibited Uses. The following uses are prohibited in the floodway fringe areas:

1. Any structure, including manufactured homes and the expansion of manufactured home/parks, 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) that does not meet the criteria in subsections (J)(1) through (5) of this section;
2. Any new 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 upland of the established floodway fringe, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway fringe, or result in any increase in flood levels during the occurrence of the base flood discharge;
3. Construction or reconstruction of residential structures within the designated floodway fringe, except for:
 - a. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and
 - b. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the assessed value of the structure either:
 1. Before the repair, reconstruction or improvement is started; or
 2. If the structure has been damaged and is being restored, before the damage occurred.
 - c. Work done on structures to correct existing violations of existing health, sanitary or safety codes, or to structures identified as historic places, shall not be included in the fifty percent.
 - d. If subsection (K)(2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Part Four.

FLOODWAY USES

L. Permitted Uses. Permitted uses include any use permitted in the zoning district in accordance with YMC Title 15 and in the environment designation in accordance with this title; provided, that said use is in compliance with the flood hazard protection standards of subsections H and I of this section, YMC 17.05.060 and other applicable provisions of this title, and will have a negligible effect upon the floodway as certified by a registered professional engineer through hydrologic and hydraulic analysis performed in accordance with standard engineering practice. The analysis must demonstrate that the effect of the subject encroachment together with the cumulative effects of all similar potential encroachments shall not:

1. Materially cause water to be diverted from the established floodway;
2. Cause erosion;
3. Obstruct the natural flow of water;
4. Reduce the carrying capacity of the floodway; or

5. Result in any increase in flood levels during the occurrence of the base flood discharge.

M. Prohibited Uses. The following uses/developments are prohibited in the floodway:

1. Any structure, including manufactured homes, designed for or to be used for human habitation of a permanent nature (including temporary dwellings authorized by YMC 15.04.130 and 15.04.140);
2. Any encroachments, including fill, new construction and other development unless demonstrated by a registered professional engineer 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 materially cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, reduce the carrying capacity of the floodway, or result in any increase in flood levels during the occurrence of the base flood discharge;
3. Aboveground utility transmission line appurtenant structures, including valves, pumping stations, or other control facilities, shall not be permitted in the floodway, except for domestic water and regional wastewater facilities where necessary;
4. Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified one-hundred-year flood event;
5. Construction or reconstruction of residential structures within designated floodways, except as allowed under Chapter 17.11 YMC;
6. The construction or storage of any object subject to flotation or movement during flood level periods;
7. The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway, are specifically prohibited:
 - a. The filling of wetlands, except as authorized under YMC 17.09.030, Fish and wildlife habitat conservation areas, and YMC 17.09.040, Wetlands;
 - b. Solid waste landfills, dumps, junkyards, outdoor storage of vehicles, and/or materials; and
 - c. Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the occurrence of the base flood discharge (see YMC 17.09.030(I)).
8. The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited.

N. Nonconforming Uses and Structures. Existing structures and uses within the special flood hazard areas established by this section or amendments thereto, which were lawful before these sections were adopted or amended, but which would be prohibited, or restricted under the terms of this section or future amendment, are governed under Chapter 17.11 YMC.

FLOOD HAZARD PROTECTION ADMINISTRATION

O. Administration. The building official is vested with the duty of administering the rules and regulations relating to flood hazard protection in accordance with the provisions of this section and may prepare and require the use of such forms as are essential to such administration.

P. Authority. Upon application, the building official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in this section and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of the policies of the critical areas ordinance.

Q. Permit—Required. Prior to any development within a special flood hazard area, a flood hazard permit shall be obtained. This permit may be in addition to the critical area development authorization as set forth in YMC 17.09.010, and any applicable shoreline permit as set forth in Chapter 17.13 YMC.

R. 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 15.11.040:

1. Name, address and telephone number of applicant and property owner if different;
2. Project description and taxation parcel identification number;
3. Name of the stream or body of water associated with the floodplain in which the development is proposed; and
4. Site plan map drawn to an engineering scale showing:
 - a. Actual dimensions and shape of the parcel to be built on;
 - b. Sizes and location of existing structures on the parcel;
 - c. Location and dimensions of the proposed development, structure or alteration;
 - d. Location, volume and type of any proposed fill; and
 - e. The application shall include other information as may be required by the shoreline administrator to clarify the application for the enforcement of this section.

S. Permit—Review. Flood hazard permit applications will be reviewed to determine:

1. The elevation and floodproofing requirements of this section;
2. The proposed development's location in relation to the floodway and any encroachments (subsection (M)(2) of this section);
3. Alteration or relocation of a watercourse (subsection (H)(4) of this section);
4. That the proposed development is a permitted use under this section and YMC Title 15; and
5. That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

T. Use of Available Data. When base flood elevation data has not been provided in accordance with subsection A of this section, 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 subsections I and M of this section and YMC 17.13.150.

U. Limitations. Permits issued on the basis of plans and applications approved by the shoreline administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized is a violation of this section and punishable as provided by YMC 17.13.150.

V. 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 building official.

W. Performance Bonds.

1. The city may require bonds in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with approvals under this section. Bonds, if required, shall be furnished by the property owner, or other person or agent in control of the property.
2. In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the city in an amount equal to that which would be required in the surety bond.

X. Appeals. The decision to grant, grant with conditions, or deny a flood hazard permit shall be final and conclusive unless the applicant appeals the decision pursuant to the procedure established for appeals in YMC 17.13.120.

Y. Coordination. Upon application, the building official shall have the authority to grant a flood hazard permit when compliance with the applicable conditions as set forth in this section and in other applicable local, state and federal regulations has been demonstrated and the proposal is found to be consistent with the purpose of this chapter.

ELEVATION AND FLOODPROOFING CERTIFICATION

Z. Applicability. Certification for elevation or floodproofing shall be required only for the new construction or substantial improvement of any residential, commercial, industrial, or nonresidential structure located in a special flood hazard area.

AA. Certification Form. The form of the elevation and floodproofing certificate shall be specified by the administrative official and shall be generally consistent with that required by FEMA for the administration of the National Flood Insurance Program.

AB. Information To Be Obtained and Maintained. The elevation and floodproofing certificate shall verify the following flood hazard protection information:

1. The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
2. The actual elevation in relation to mean sea level of floodproofing of all new or substantially improved nonresidential floodproofed structures; and
3. Where a base flood elevation has not been established according to subsection A of this section, or where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

AC. Certification Responsibility. The project proponent shall be responsible for providing required certification data to the administrative official prior to the applicable construction inspection specified in the certification form. All elevation and floodproofing data specified in subsection AB of this section must be obtained and certified by a registered professional engineer, architect, or surveyor. The elevation and floodproofing certification shall be permanently maintained by the administrative official.

FLOOD HAZARD VARIANCES

AD. Procedure. Any person seeking a variance from the requirements of this section authorized under subsection AE of this section shall make such request consistent with the procedures established in Chapter 17.13 YMC.

AE. Variance Limitations.

1. Variances shall be limited solely to the consideration of:
 - a. Elevation requirements for lowest floor construction;
 - b. Elevation requirements for floodproofing; and

c. The type and extent of floodproofing.

2. Variances shall not be considered for any procedural or informational requirements or use prohibitions of this section.

AF. Conditions for Authorization. In addition to demonstrating consistency with the shoreline variance criteria in YMC 17.13.080, the applicant for a variance to the provisions of this section shall show that:

1. There are special circumstances applicable to the subject property or to the intended use, such as size, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone;

2. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;

3. Such a variance is the minimum necessary, considering the flood hazard, to afford relief;

4. Failure to grant the variance would result in exceptional hardship to the applicant; and

5. The granting of such a variance will not result in:

a. Increased flood heights;

b. Additional threats to public safety;

c. Creation of nuisances;

d. Extraordinary public expense; or

e. Conflicts with other existing local laws or ordinances.

AG. Federal Flood Hazard Map Correction Procedures. The procedures for federal flood hazard map correction, as provided in federal regulations 44 CFR 70 of the National Insurance Program, are hereby adopted by reference. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.09.030 Fish and wildlife habitat conservation areas.

A. Purpose and Intent. Policies and standards to help conserve and protect fish and wildlife habitat conservation areas are designed to accomplish the following:

1. Meet the requirements of the Shoreline Management Act (Chapter 90.58 RCW) regarding ~~the use of best-available~~the most current, accurate and complete scientific and technical information science that is applicable to the issues of concern;

2. Require consideration of alternatives for necessary development, construction, and uses within fish and wildlife habitat conservation areas;

3. Prevent decline in the quantity and quality of surface and subsurface waters;

4. Conserve, restore, and protect fish and wildlife habitats, vegetation, and ecological relationships;

5. Protect fish and wildlife habitat conservation areas from the potential negative effects of development through coordinated land use planning; and

6. Protect fish and wildlife habitat conservation areas through voluntary agreements or government incentives.

B. Protection Approach.

4. 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, cover, and lack of disturbance and diseases. The city of Yakima protects fish and wildlife habitat through:

- a1. Designation of fish and wildlife habitat conservation areas; and
- b2. Application of development standards based on ~~the best available~~ most current, accurate and complete scientific and technical information science to proposed activity and development in or near fish and wildlife habitat conservation areas.

DESIGNATION AND MAPPING

C. Designation. Fish and wildlife habitat conservation areas are those habitat areas that meet any of the criteria listed below:

1. Areas with which state and federal endangered, threatened, and sensitive species have a primary association;
2. Habitats and species of local importance;
3. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
4. Waters of the state, including any required buffers and associated Federal Emergency Management Agency-mapped floodplains and floodways;
5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
6. State natural area preserves, natural resource conservation areas, and state wildlife areas.

D. Habitat and Habitats of Local Importance.

1. All species and habitats identified by WDFW's Priority Habitats and Species program that may be found in the city of Yakima are designated as fish and wildlife habitat conservation areas and afforded protection under this chapter.
2. Species and habitats of local importance may be identified for protection under this chapter. State or local agencies, individuals or organizations may identify and nominate for consideration specific species and habitats, or a general habitat type, including streams, ponds or other features. Proponents shall have the burden of presenting evidence concerning the criteria set forth below. The nomination shall be processed once a year through the annual comprehensive plan amendment cycle.
 - a. The decision for changes to species and habitats of local importance shall consider:
 - i. Concern due to population status;
 - ii. Sensitivity to habitat manipulation;
 - iii. Importance to the local community; and
 - iv. Criteria used to identify state priority species, which include:
 - (A) State candidate species that are defined by WDFW Policy M-6001 to include fish and wildlife species that WDFW will review for possible listing as state endangered, threatened, or sensitive;

- (B) Vulnerable aggregations, which includes those species or groups of animals susceptible to significant population declines, within a specific area, by virtue of their inclination to aggregate;
 - (C) Species of recreational, commercial, and/or tribal importance that are vulnerable; and
 - (D) The economic impact both positive and negative to the applicant's property or surrounding property. Economic impact is to be determined by a properly qualified individual or firm using industry standards.
- b. Nominated habitats and habitats for species of local importance shall consider the following and must include maps to illustrate the proposal:
- i. A seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain or reproduce over the long term;
 - ii. Areas of high relative density or species richness, breeding habitat, winter range, and movement corridors;
 - iii. Habitat with limited availability or high vulnerability to alteration; and
 - iv. Whether these habitats are already identified and protected under the provisions of this or other local ordinances or state or federal law.
- c. Habitat management recommendations shall be included for use in the administration of this section.

3. Development Standards. Projects located within habitats of local importance, or within two hundred feet of species of local importance, as designated in subsection (D)(1) of this section, shall comply with the applicable development standards in subsections H through O of this section. In addition, projects shall be design~~ated~~^{ated} using management recommendations established for the species or habitat by federal and state agencies, or those adopted for species and habitats of local importance by the city of Yakima. The department shall consider the extent such recommendations are used in its decision on the proposal, and may consider recommendations and advice from agencies with expertise.

E. Functional Properties.

1. Aquatic fish and wildlife habitat conservation areas require a sufficient riparian area to support one or more of the following functional properties:
- a. Stabilizing banks;
 - b. Providing a sufficient shade canopy to maintain water temperatures that support fish and their habitat;
 - c. Moderating the impact of stormwater runoff;
 - d. Filtering solids, nutrients and harmful substances;
 - e. Preventing surface erosion;
 - f. Providing and maintaining migratory corridors for wildlife;
 - g. Providing food in the form of various insects and other benthic macroinvertebrates;
 - h. Supporting a diversity of wildlife habitats; or
 - i. Allowing for the natural occurrence of woody debris and organic matter to collect in the aquatic environment.

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

F. Water 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 subsection C of this section as follows:

1. Type 1 waters are those waters, within their ordinary high water mark (OHWM), meeting the criteria as “shorelines of the state” and “shorelines of statewide significance” under Chapter 90.58 RCW. Other waters associated with Type 1 waters are not considered Type 1 waters;
2. Type 2 waters are those perennial, salmon~~id~~-bearing surface water features which require protection due to the nature of their contributions to the functional properties listed in subsection E of this section and are considered “streams, lakes and/or ponds of local importance,” as listed in Appendix ~~B~~-A of this title;
3. Type 3 waters include all perennial non-salmonid-bearing streams-surface water features within the city of Yakima not classified as Type 1 or 2 (see YMC 17.01.090, “perennial stream”);
4. Type 4 waters are all non-fish-bearing intermittent streams-surface water features within the city of Yakima not classified as Type 1, 2 or 3 (see YMC 17.01.090, “intermittent stream”);
5. Type 5 waters are all ephemeral streams-surface water features within the city of Yakima not classified as Type 1, 2, 3 or 4. Type 5 streams are not regulated as streams (see YMC 17.01.090, “ephemeral stream”); and
6. Lakes and Ponds.
 - a. Lakes and ponds not designated as a shoreline that receive water from the OHWM of a Type 2, 3, or 4 stream shall have the same surface water type as the highest stream type from which the lake or pond receives water.
 - b. Natural lakes and ponds, not designated as a shoreline, that do not receive water from the OHWM of a Type 1, 2, 3, or 4 stream shall be Type 3 ponds.

G. Maps. Certain fish and wildlife habitat ~~and~~-conservation 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:

1. Regulatory maps include any floodway or floodplain identified as a special flood hazard area by the Federal Emergency Management Agency (FEMA) as identified in the flood insurance studies (FIRMs).
2. Informational maps indicate the approximate presence, location and/or typing of the potential critical area. Informational maps include, but are not limited to, the following:
 - a. Wetlands;
 - b. Streams;
 - c. Channel migration zone; and
 - d. Species and habitats of local importance. Note: This map will be generated at such a time when the city of Yakima formally adopts a species or habitat of local importance.
3. Other nonregulatory information sources include maps or other data sources, but are not limited to:
 - a. Comprehensive flood hazard management plans;
 - b. Soil survey of the city of Yakima;
 - c. Surface geologic maps;
 - d. Historic and current aerial photo series; and
 - e. Geohydraulic studies—geologic cross-sections showing aquifers and confining units.

GENERAL DEVELOPMENT STANDARDS

H. Prohibited Uses. The following uses and activities are prohibited within a designated fish and wildlife habitat conservation area:

1. Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;
2. The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;
3. The draining or filling of a wetland, lake or pond, except as provided for in YMC 17.07.060(B);
4. The removal and transport of material for fill outside of the stream corridor;
5. Site runoff storage ponds, holding tanks and ponds, and other similar waste disposal facilities. Note: This provision does not include regional wastewater plant facilities, collection pipes, septic systems approved by a local or state agency, and other related facilities;
6. Solid waste disposal sites;
7. Automobile wrecking yards;
8. Fill for the sole purpose of increasing land area within the stream corridor;
9. Uses located within the floodway fringe that are listed in YMC 17.09.020(K); and
10. Uses located within the floodway that are listed in YMC 17.09.020(M).

I. General Policies and Standards. The following policies and standards shall apply to any development, construction, or use carried out within a designated fish and wildlife habitat conservation area~~hydrologically related critical area~~:

1. The ordinary high water mark of a stream or lake, and the edge of a wetland, shall be marked on the ground before any development, construction, or use is initiated;
2. Existing vegetation and any vegetative species pertinent to the critical area identified on the project site ~~within the stream corridor~~ shall only be disturbed to the minimum extent possible;
3. Nesting areas and other sensitive habitat identified within a fish and wildlife habitat conservation area ~~stream corridor~~ shall be disturbed to the minimum extent possible;
4. Projects within the fish and wildlife habitat conservation area ~~stream corridor~~ shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered;
5. The following measures are incorporated into stormwater permits approved by a local, state or federal agency and transportation projects using the Stormwater Management Manual for Eastern Washington. Developments that do not require a stormwater permit shall also incorporate the following elements into project design:
 - a. Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load;
 - b. The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion;

- c. Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a [fish and wildlife habitat conservation area stream-corridor](#) shall provide on-site facilities for detention, control, and filtration if potential increases have been identified to occur;
 - d. The discharge point for controlled stormwater runoff shall be designed and constructed to avoid erosion; and
 - e. Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established;
6. Prior to the approval of development, construction, or uses within a designated [fish and wildlife habitat conservation area stream-corridor](#), any existing source of biochemical or thermal degradation identified as originating on the project property shall be corrected;
 7. Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the [fish and wildlife habitat conservation area stream-corridor](#);
 8. Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters;
 9. Development, construction, or uses within the [fish and wildlife habitat conservation area stream-corridor](#) shall not alter or divert flood flows, cause channel shift, erosion, and increase or accelerate the flooding of upstream or downstream flood hazard areas;
 10. Structures placed in close proximity to the outer edge of bends in stream channels shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration;
 11. The Department of Ecology and adjacent communities shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency;
 12. Maintenance shall be provided for the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
 13. Development shall not obstruct, cut off, or isolate [fish and wildlife habitat conservation area stream-corridor](#) features;
 14. Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership;
 15. Projects located within the floodway must meet the requirements of YMC 17.09.020(L); and
 16. Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using the reclamation found in subsection P of this section.

WATER DEPENDENCY DEVELOPMENT STANDARDS AND BUFFER REQUIREMENTS

J. 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 subsections K through N of this section:

1. Water-oriented uses are one of the following three categories of uses, as defined in YMC 17.01.090: water-dependent, water-related, or water-enjoyment, or a combination of such uses.
2. Nonwater-oriented uses include any use not qualifying as uses in subsection (J)(1) of this section.

- K. Water-Dependent Uses. The following provisions shall apply to water-dependent uses:
1. Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore.
 2. Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in subsection O of this section.
 3. Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.
- L. Water-Related Uses. The following provisions shall apply to water-related uses:
1. Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.
 2. Structures and use areas shall not be located within the vegetative buffer specified in subsection O of this section except where existing development or the requirements associated with the use make such a location unavoidable.
- M. Water-Enjoyment Uses. The following provisions shall apply to water-enjoyment uses:
1. Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.
 2. Structures and use areas may be located within the vegetative buffer specified in subsection O of this section; provided, that the location and construction shall be conducted to minimize impacts to the shore area and the vegetative buffer.
- N. Nonwater-Oriented Uses. The following provisions shall apply to nonwater-oriented uses:
1. Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in subsection O of this section.
 2. Construction abutting the vegetative buffer specified in subsection O of this section shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.
- O. Vegetative Buffers. The establishment of a vegetative buffer system is necessary to protect the functions and values of streams, lakes, and ponds (Table 09.030-1). See YMC 17.09.040 for wetland buffer regulations.
1. Vegetative buffers shall be measured from the ordinary high water mark for streams, lakes, and ponds. The width of the buffer shall be determined according to the water type.
 2. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.
 - a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.
 - b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

Table 09.030-1. Standard Stream-Water Type Buffers

<u>Stream-Water Type</u>	Buffer Width
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Type 1 shoreline streams, lakes, and ponds	High Intensity: Streams: 75' Lakes: 50' Essential Public Facilities: 100' Floodway/CMZ: 100' Shoreline Residential: Streams: 80' Lakes: 20' Urban Conservancy: 100'
Type 2	75 100'
Type 3	65 50'
Type 4	50 25'
Type 5	No buffer standards. Type 5 streams-waters are not regulated as streams fish and wildlife habitat conservation areas, but may be protected under geologically hazardous area, floodplain, stormwater, construction, grading or other development regulations.

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

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

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

4. Buffer averaging to improve stream, lake or pond protection may be permitted when all of the following conditions are met:

- a. The stream or riparian corridor has significant differences in characteristics that affect its habitat functions.
- b. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the stream, lake or pond and decreased adjacent to the lower-functioning or less sensitive portion as demonstrated by a critical areas report from a qualified professional.
- c. The total area of the buffer after averaging is equal to the area required without averaging.
- d. The buffer at its narrowest point is never less than three-quarters of the required width.

5. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

- a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
- b. The averaged buffer will not result in degradation of the stream or riparian corridor's functions and values as demonstrated by a critical areas report from a qualified professional.
- c. The total buffer area after averaging is equal to the area required without averaging.
- d. The buffer at its narrowest point is never less than three-quarters of the required width.

6. All other proposals to reduce a stream, lake or pond buffer width may only be approved through the shoreline variance process.

P. ~~Reclamation~~Restoration. The following guidelines shall apply to the ~~reclamation-restoration~~ of disturbed sites resulting from development activities within a designated ~~hydrologically-related critical~~fish and wildlife habitat conservation area:

1. Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation;
2. Large-scale projects that extend over several months shall be phased to allow reclamation of areas where work or operations have been completed;
3. Reclamation-Restoration shall be scheduled to address precipitation, meltwater runoff, the growing season, and other seasonal variables that influence restoration and recovery;
4. Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas;
5. Where existing development and construction prevent return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent ~~stream-corridor~~ degradation of fish and wildlife habitat conservation areas;
6. Cut-and-fill slopes shall be stabilized at, or at less than, the normal angle of repose for the materials involved; and
7. For the replacement or enhancement of vegetation within fish and wildlife habitat conservation areas and their wetlands and required vegetative buffers ~~naturally-occurring~~, native plant species shall be used; ~~and~~
8. ~~In other parts of the stream, naturally-occurring, native plant species shall be used~~, unless a showing of good cause acceptable to the administrative official or designee is provided. Should good cause be shown, then self-maintaining or low-maintenance plant species compatible with the native vegetation shall be used in place of nonnative and high-maintenance species. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.09.040 Wetlands.

A. Purpose and Intent. The purpose and intent of the provisions protecting wetland critical areas is equivalent to the purpose and intent for YMC 17.09.030.

B. Designating and Mapping.

1. Wetlands shall be delineated using the procedure outlined in the approved federal wetland delineation manual and applicable regional supplements.
2. Wetlands are all areas meeting the definition for wetlands as defined in YMC 17.01.090 and are hereby designated critical areas which are subject to this chapter, except the following:
 - a. Irrigation systems that create an artificial wetlands; and
 - b. Areas where changes in irrigation practices have caused wetland areas to dry up.
3. The approximate location and extent of wetlands are shown on maps maintained by the city of Yakima. These maps may include information from the National Wetlands Inventory produced by the U.S. Fish and Wildlife Service and are to be used as a guide for the city of Yakima.

C. Protection Approach. Wetlands will be protected using the protection approach for ~~hydrologically-related critical~~fish and wildlife habitat conservation areas found in YMC 17.09.030(B). Wetlands and their functions will be protected using the standards found in this section and in YMC 17.09.030.

D. Wetland Functions and Rating.

1. Wetlands are unique landscape features that are the interface between the aquatic and terrestrial environments. Wetlands provide the following functions:
 - a. Biogeochemical functions, which improve water quality in the watershed (such as nutrient retention and transformation, sediment retention, metals, and toxics retention and transformation).
 - b. Hydrologic functions, which maintain the water regime in a watershed, such as: flood flow attenuation, decreasing erosion, and groundwater recharge.
 - c. Food and habitat functions, which include habitat for invertebrates, amphibians, anadromous fish, resident fish, birds, and mammals.
2. Wetlands shall be rated based on categories that reflect the functions and values of each wetland and shall be based on the criteria provided in the Washington State Wetland Rating System for Eastern Washington, revised October 2014 (Ecology Publication Number 14-06-030, or as revised) which are summarized below.
 - a. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace in a human lifetime; or 4) provide a high level of functions. Risk of any degradation to these wetlands must be avoided because their functions and values are too difficult to replace. Generally, these wetlands are not common and make up a small percentage of the wetlands in the region.
 - b. Category II wetlands are difficult but not impossible to replace and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.
 - c. Category III wetlands are wetlands with a moderate level of functions and can often be adequately replaced with a well-planned mitigation project. These wetlands generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
 - d. Category IV wetlands have the lowest levels of functions and are often heavily disturbed. These are wetlands that should be able to be replaced and, in some cases, improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.
3. Wetlands shall be rated as they exist on the day of project application submission. Information regarding the original condition of illegally modified wetlands that cannot be discerned from aerial photographs or other reliable information sources shall use the highest appropriate points value within each missing data field of the [Washington State Wetland Rating System for Eastern Washington WRSEW](#) rating sheet to complete the rating.

E. Wetland Buffers.

1. Buffer Requirements. The following buffer widths have been established in accordance with the ~~best available~~most current, accurate and complete scientific and technical information~~science~~. They are based on the category of wetland and the habitat score as determined by a qualified professional using the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication No. 14-06-030, or as revised). The adjacent land use intensity is assumed to be high.
 - a. For wetlands that score five points or more for habitat function, the buffers in Table 27.6-1 can be used if both of the following criteria are met:
 1. A relatively undisturbed, vegetated corridor at least one hundred feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife (<http://wdfw.wa.gov/hab/phshabs.htm>).

The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.

Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 27.6-1 may be used with the required measures in Table 27.6-2 alone.

2. The measures in Table 27.6-2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.
- b. For wetlands that score three to four habitat points, only the measures in Table 27.6-2 are required for the use of Table 27.6-1.
- c. If an applicant chooses not to apply the mitigation measures in Table 27.6-2, or is unable to provide a protected corridor where available, then Table 27.6-3 shall be used.
- d. The buffer widths in Tables 27.6-1 and 27.6-3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table 27.6-1: Wetland Buffer Requirements if Table 27.6-2 Is Implemented and Corridor Provided

	Buffer Width (feet) based on habitat score			
Wetland Category	3— 4 <u>5</u>	5	6—7	8—9
Category I: Based on total score	75	90	120 <u>110</u>	150
Category I: Forested	75	90	120 <u>110</u>	150
Category I: Bogs and wetlands of high conservation value	190			
Category I: Alkali	150			
Category II: Based on total score	75	90	120 <u>110</u>	150
Category II: Vernal pool	150			
Category II: Forested	75	90	120 <u>110</u>	150
Category III (all)	60	90	120 <u>110</u>	150
Category IV (all)	40			

Table 27.6-2: Required Measures to Minimize Impacts to Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> Direct lights away from wetland
Noise	<ul style="list-style-type: none"> Locate activity that generates noise away from wetland If warranted, enhance existing buffer with native vegetation for plantings adjacent to noise source

Disturbance	Required Measures to Minimize Impacts
	<ul style="list-style-type: none"> For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10 feet heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Toxic runoff	<ul style="list-style-type: none"> Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered Establish covenants limiting use of pesticides within 150 feet of wetland Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> Retrofit stormwater detention and treatment for roads and existing adjacent development Prevent channelized flow from lawns that directly enters the buffer Use low intensity development techniques
Changes in water regime	<ul style="list-style-type: none"> Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and human disturbance	<ul style="list-style-type: none"> Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> Use best management practices to control dust

**Table 27.6-3: Wetland Buffer Requirements
if Table 27.6-2 Is NOT Implemented and
Corridor NOT Provided**

	Buffer Width (feet) based on habitat score			
Wetland Category	3— 45 ⁵		6—7	8—9
Category I: Based on total score	100	130	180 ¹⁵⁰	200
Category I: Forested	100	130	180 ¹⁵⁰	200
Category I: Bogs and wetlands of high conservation value	250			
Category I: Alkali	200			
Category II: Based on total score	100	130	180 ¹⁵⁰	200
Category II: Vernal pool	200			
Category II: Forested	100	130	180 ¹⁵⁰	200
Category III (all)	80	130	180 ¹⁵⁰	200
Category IV (all)	50			

e. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the administrative official when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is

reasonably related to protection of the functions and values of the wetland. This documentation shall include, but not be limited to, the following criteria:

- i. The wetland is used by a state or federally listed plant or animal species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
 - ii. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
 - iii. The adjacent land has minimal vegetative cover or slopes greater than thirty percent.
- f. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - i. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area.
 - ii. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
 - iii. The total area of the buffer after averaging is equal to the area required without averaging.
 - iv. The buffer at its narrowest point is never less than either three-quarters of the required width or seventy-five feet for Categories I and II, fifty feet for Category III, and twenty-five feet for Category IV, whichever is greater.
- g. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - i. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - ii. The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by a critical areas report from a qualified wetland professional.
 - iii. The total buffer area of the buffer after averaging is equal to the area without averaging.
 - iv. The buffer at its narrowest point is never less than either three-quarters of the required width or seventy-five feet for Categories I and II, fifty feet for Category III, and twenty-five feet for Category IV, whichever is greater.
- 2. To facilitate long-range planning using a landscape approach, the administrative official may identify and preassess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. The administrative official will prepare maps of wetlands that have been preassessed in this manner.
- 3. Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Buffers must be fully vegetated in order to be included in buffer area calculations. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.
- 4. Buffers on Mitigation Sites. All wetland mitigation sites shall have buffers consistent with the buffer requirements of this chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

5. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is required for the duration of the mitigation bond, YMC ~~15.27.605~~ [17.07.040\(F\)\(10\)\(b\)\(i\)\(10\)\(F\)\(2\)\(a\)\(*\)](#).
6. Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in YMC ~~15.27.605~~ [17.09.040\(F\)](#).
7. Overlapping Critical Area Buffers. If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.
8. Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
 - a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 - b. Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
 1. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable.
 2. Wildlife-viewing structures.
 - c. Educational and scientific research activities.
 - d. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
 - e. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
 - f. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column is disturbed.
 - g. Enhancement of a wetland buffer through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate for that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
 - h. Repair and maintenance of nonconforming uses or structures, where legally established within the buffer, provided they do not increase their degree of nonconformity.
9. Signs and Fencing of Wetlands and Buffers.

a. Temporary Markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the administrative official prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the administrative official may require the applicant to install permanent signs along the boundary of a wetland or buffer.

1. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or other nontreated material of equal durability. Signs must be posted at an interval of one every fifty feet, or one per lot if the lot is less than fifty feet wide, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the administrative official:

Protected Wetland Area

Do Not Disturb

Contact the City of Yakima

Regarding Uses, Restrictions, and Opportunities for Stewardship

2. The provisions of subsection (E)(9)(a) may be modified as necessary to assure protection of sensitive features or wildlife.

c. Fencing.

1. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

2. Fencing installed as part of a proposed activity, or as required in this subsection, shall be designed so as not to interfere with species mitigation, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

F. Compensatory Mitigation.

1. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of preference:

a. Avoid the impact altogether by not taking a certain action or parts of an action.

b. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

d. Reduce or eliminate the impact over time by preservation and maintenance operations.

e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.

f. Monitor the required compensation and take remedial or corrective measures when necessary.

2. Requirements for Compensatory Mitigation.

- a. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans—Version 1 (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication No. 10-06-07, November 2010).
 - b. Mitigation ratios may also be determined using the credit/debit tool described in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report” (Ecology Publication No. 11-06-[045015](#), August 2012), consistent with subsection (F)(9) of this section.
3. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:
 - a. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
 - b. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the city, such as replacement of historically diminished wetland types.
4. Approaches to Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below.
 - a. Wetland Mitigation Banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the mitigation bank instrument. Use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:
 - i. The approval authority determines that it would provide appropriate compensation for the proposed impacts;
 - ii. The impact site is located in the service area of the bank;
 - iii. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument; and
 - iv. Replacement ratios for projects using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.
 - b. In-Lieu Fee Mitigation. Credits from an approved in-lieu-fee program may be used when all of the following apply:
 - i. The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts.
 - ii. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument.
 - iii. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant’s qualified wetland professional using the credit assessment method specified in the approved instrument for the in-lieu-fee program.
 - iv. The impacts are located within the service area specified in the approved in-lieu-fee instrument.
 - c. Permittee-Responsible Mitigation. In this situation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-

responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the approval authority's satisfaction that the proposed approach is ecologically preferable to use of a bank or ILF program, consistent with the criteria in this section.

5. Types of Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on a type listed below in order of preference. A lower-preference form of mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the approval authority's satisfaction that all higher-ranked types of mitigation are not viable, consistent with the criteria in this section.

a. Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into:

i. Reestablishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Reestablishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

ii. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

b. Establishment (Creation). The manipulation of the physical, chemical, or biological characteristics of a site to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

i. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland professional that:

1. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;

2. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and

3. The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

c. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities. Applicants proposing to enhance wetlands or associated buffers shall demonstrate how the proposed enhancement will increase the wetland's/buffer's functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.

d. Protection/Maintenance (Preservation). Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, or repairing water control structures or fences. This term also includes activities commonly associated with the term “preservation.” Preservation does not result in a gain of wetland acres. Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:

- i. The approval authority determines that the proposed preservation is the best mitigation option;
- ii. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;
- iii. The area proposed for preservation is of high quality or critical for the health of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites:
 1. Category I or II wetland rating (using the [Washington State Wetland Rating System](#) for [Western Washington](#));
 2. Rare or irreplaceable wetland type (for example, bogs, mature forested wetlands, estuarine wetlands) or aquatic habitat that is rare or a limited resource in the area;
 3. The presence of habitat for priority or locally important wildlife species; or provides biological and/or hydrological connectivity;
 4. Provides biological and/or hydrological connectivity;
 5. Priority sites in an adopted watershed plan.
- iv. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust.
- v. The approval authority may approve other legal and administrative mechanisms in lieu of a conservation easement if it determines they are adequate to protect the site.
- vi. Ratios for preservation in combination with other forms of mitigation generally range from ten-to-one to twenty-to-one, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the quality of the wetlands being preserved. Ratios for preservation as the sole means of mitigation generally start at twenty-to-one.

6. Location of Compensatory Mitigation. Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. The following criteria will be evaluated when determining whether the proposal is ecologically preferable. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.

- a. There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
- b. On-site mitigation would require elimination of high-quality upland habitat.
- c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.
- d. Off-site locations shall be in the same sub-drainage basin unless:

- i. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; or
 - ii. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument;
 - iii. Fees are paid to an approved in-lieu fee program to compensate for the impacts.
- e. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.
7. **Timing of Compensatory Mitigation.** It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.
- a. The administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the city.
8. **Wetland Mitigation Ratios.**

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation	Enhancement
Category I: Bog, natural heritage site	Not considered possible	case by case	case by case
Category I: Mature forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

Ratios for rehabilitation and enhancement may be reduced when combined with one-to-one replacement through creation or reestablishment. See Table 1b, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance—Version 1 (Ecology Publication No. 06-06-011a, Olympia, WA, March 2006 or as revised). See also subsection (F)(5)(d) of this section for more information on using preservation as compensation.

9. **Credit/Debit Method.** To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance “Wetland Mitigation in Washington State Parts I and II” (Ecology Publication No. 06-06-011a-b, Olympia, WA, March, 2006), the administrator may allow mitigation based on the “credit/debit” method developed by the Department of Ecology in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report” (Ecology Publication No. 11-06-015, August 2012, or as revised).

10. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

- a. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in YMC ~~15.27.314~~[17.09.010\(P\)](#) and ~~15.27.315~~[17.09.010\(Q\)\(2\)\(B\)](#).
- b. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State—Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised).
 - i. The written report must contain, at a minimum:
 1. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.
 2. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.
 3. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings, YMC ~~15.27.603~~[17.09.040\(D\)](#).
 4. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession?).
 5. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.
 6. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.
 7. A description of the proposed mitigation construction activities and timing of activities.
 8. Performance standards (measurable standards for years post-installation) for upland and wetland communities, a monitoring schedule, and a maintenance schedule and actions proposed by year.
 9. A discussion of ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).
 10. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight,

maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

11. Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

ii. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

1. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

2. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.

3. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

4. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter.

5. A planting plan for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation.

11. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a minimum one-to-one ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

12. Protection of the Mitigation Site. The area where the mitigation occurred and any associated buffer shall be located in a critical area tract or a conservation easement consistent with YMC ~~15.27 Part six~~ [17.09.040](#).

13. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

14. Advance Mitigation. Mitigation for projects with preidentified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations consistent with Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (Ecology Publication No. 12-06-015, Olympia, WA, December 2012).

15. Alternative Mitigation Plans. The administrator may approve alternative wetland mitigation plans that are based on ~~the best available~~ [most current, accurate and complete scientific and technical information](#), such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter. The administrative official shall consider the following for approval of an alternative mitigation proposal:

a. The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Ecology Publication No. 10-06-07, November 2010).

- b. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
- c. Mitigation according to subsection (F)(5) of this section is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
- d. There is clear potential for success of the proposed mitigation at the proposed mitigation site.
- e. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in subsection (F)(10) of this section.
- f. The plan shall be reviewed and approved as part of overall approval of the proposed use.
- g. A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
- h. Mitigation guarantees shall meet the minimum requirements as outlined in subsection (F)(10)(b)(i)(8) of this section.
- i. Qualified professionals in each of the critical areas addressed shall prepare the plan.
- j. The city may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.09.050 Geologically hazardous areas.

A. Purpose and Intent.

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

B. Mapping and Designation.

- 1. Geologically hazardous areas are areas that are susceptible to one or more of the following, based on WAC 365-190-120.
 - a. Erosion hazards;
 - b. Landslide hazards, which include:

- i. Over steepened slopes;
 - ii. Alluvial fan/flash flooding;
 - iii. Avalanche; and
 - iv. Channel migration zones and stream undercutting.
 - c. Seismic hazards (referred to below as earthquake hazards); and
 - d. Volcanic hazards.
2. The approximate location and extent of erosion hazard areas are shown on the city of Yakima's critical area map titled "Erosion Hazard Areas of the City of Yakima." Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. Erosion hazard areas were identified by using the "Soil Survey of Yakima County Area, Washington" and the "Soil Survey of Yakima Indian Reservation Irrigated Area, Washington, Part of Yakima County."
3. The approximate location and extent of geologically hazardous areas are shown on the city's critical area map titled "Geologically Hazardous Areas of the City of Yakima." The following geologically hazardous areas have been mapped and classified using the criteria found in WAC 365-190-120:
- a. Landslide Hazard Areas (LS). These include places where landslides, debris flows, or slumps have occurred.
 - i. High risk (LS3) is defined as areas that are presumed to have had a landslide, debris flow, or slump within ten thousand years or less.
 - ii. 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.
 - iii. Low risk areas are defined as areas unlikely to fail. These areas are unlabeled and combined with other low risk categories.
 - b. Over Steepened Slope Hazard Areas (OS). These include areas with slopes steep enough to create a potential problem.
 - i. High risk areas (OS3) are defined as having a high potential to fail, include slopes greater than forty percent, and consist of areas of rock fall, creep, and places underlain with unstable materials.
 - ii. Intermediate risk areas (OS2) are defined as areas less likely to fail but are still potentially hazardous. This category includes slopes between fifteen percent and forty percent.
 - iii. Low risk areas are defined as areas unlikely to fail. These areas are unlabeled and combined with other low risk categories.
 - c. Alluvial Fan/Flash Flooding Hazard Areas (AF). These areas include locations where flash floods can occur and are often associated with inundation by debris from flooding. These areas may include:
 - i. Alluvial fans;
 - ii. Canyons;
 - iii. Gullies; and
 - iv. Small streams where catastrophic flooding can occur.
 - d. Stream Undercutting Hazard Areas (SU). These areas are confined to banks near main streams and rivers where undercutting of soft materials may result.

- i. High risk areas (SU3) include steep banks of soft material adjacent to present stream courses.
 - ii. Intermediate risk areas (SU2) are banks along the edge of a flood plain but away from the present river course.
 - iii. Low risk areas (SU1) are unlabeled and combined with other low risk areas on the maps.
 - e. Earthquake Activity Hazard Areas (EA). Recorded earthquake activity in the city of Yakima is mostly marked by low magnitude events and thus low seismic risk. The city of Yakima's low risk areas are unlabeled and combined with other low risk hazards.
 - f. Suspected Geologic Hazard Areas (SUS). These are areas for which detailed geologic mapping is deficient but preliminary data indicate a potential hazard may exist. No risk assessment (1, 2, 3) is given for these areas. Most are probably OS or LS hazards.
 - g. Risk Unknown Hazard Areas (UNK). This category is limited to areas where geologic mapping is lacking or is insufficient to make a determination. All of these areas are associated with other classified geologic hazards.
4. Volcanic hazard areas are not mapped, but are defined as areas subject to pyroclastic (formed by volcanic explosion) flows, lava flows, and inundation by debris flows, mudflows or related flooding resulting from volcanic activity. Volcanic hazard areas in the city of Yakima are limited to pyroclastic (ash) deposits. No specific protection requirements are identified for volcanic hazard areas.
- C. Geologically Hazardous Areas Protection Approach. The geologically hazardous areas protection approach can be met by following the guidelines below and by implementing the appropriate sections of the building code as adopted in YMC Title 11.
1. General.
 - a. New development and creation of new lots that would cause foreseeable risk from geological conditions during the life of the development or would require structural shoreline stabilization over the life of the development (except as allowed under YMC 17.07.130) is prohibited.
 - b. New stabilization structures for existing primary residential structures allowed only where no alternatives (including relocation or reconstruction of existing structures) are feasible, and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result.
 2. Erosion Hazard Areas. Protection measures for erosion hazard areas will be accomplished by implementing the regulatory standards for erosion and drainage control required under YMC Title 11, Buildings. YMC Title 11 requirements can be met by the application of the best management practices (BMPs) in the Stormwater Management Manual for Eastern Washington (WDOE Publication Number 04-10-076); equivalent manual adopted by the city of Yakima; or any other approved manual deemed appropriate by the building official.
 3. Landslide Hazard Areas. Protection measures for landslide hazard areas will be accomplished through the review process of subsection D of this section by implementing the development standards of subsection E of this section.
 4. Alluvial Fan/Flash Flooding Hazard Areas. Protection measures for alluvial fan/flash flooding hazard areas will be accomplished through the review process of subsection D of this section.
 5. Stream Undercutting Hazard Areas. Protection measures for stream undercutting hazard areas will be accomplished by critical areas review for flood hazards, streams, and shoreline jurisdiction.
 6. Oversteepened Slope Hazard Areas. Protection measures for oversteepened slope hazard areas will be accomplished through the review process of subsection D of this section, by implementing the development standards of subsection E of this section.

7. Earthquake/Seismic Hazard Area Protection Standards. Protection measures for earthquake/seismic hazard areas will be accomplished by implementing the appropriate sections of the building code as adopted in YMC Title 11.

8. Suspected Geologic Hazard Areas and Risk Unknown Hazard Areas. Protection measures for suspected geologic hazard areas and risk unknown hazard areas will be accomplished through the review process of subsection D of this section and by implementing the development standards of subsection E of this section.

D. Development Review Procedure for Geologically Hazardous Areas.

1. The shoreline administrator shall make a determination of hazard to confirm whether the development or its associated facilities (building site, access roads, limits of grading/excavation/filling, retaining walls, septic drainfields, landscaping, etc.) are located:

- a. Within a mapped geologically hazardous area;
- b. Adjacent to or abutting a mapped geologically hazardous area and may result in or contribute to an increase in hazard, or pose a risk to life and property on or off the site;
- c. Within a distance from the base of an adjacent landslide hazard area equal to the vertical relief of said hazard area; or
- d. Within the potential run-out path of a mapped avalanche hazard.

2. Developments that receive an affirmative determination of hazard by the shoreline administrator under subsection (D)(1) of this section must conduct a geologic hazard report as provided in YMC 17.09.010(Q), which may be part of a geotechnical report required below.

- a. If the geologic hazard report determines that no hazard exists or that the project area lies outside the hazard, then no geologic hazard review is needed.
- b. The shoreline administrator is authorized to waive further geologic hazard review for oversteepened slopes on the basis that the hazards identified by the geologic hazard report will be adequately mitigated through the issuance of a grading or construction permit.

3. Developments that receive an affirmative determination of hazard, but do not meet the provisions of subsection (D)(2)(a) or (D)(2)(b) of this section, must:

- a. Obtain a critical areas development authorization under YMC 17.09.010;
- b. Submit a geotechnical report that is suitable for obtaining grading and construction permits that will be required for development:
 - i. The geotechnical report shall incorporate a submitted assessment which includes the design of all facilities;
 - ii. A description and analysis of the risk associated with the measures proposed to mitigate the hazards; and
 - iii. Ensure the public safety, and protect property and other critical areas; and
- c. Be consistent with subsection E of this section.

E. General Protection Requirements.

1. Grading, construction, and development and their associated facilities shall not be located in a geologically hazardous area, or any associated setback for the project recommended by the geotechnical report,

unless the applicant demonstrates that the development is structurally safe from the potential hazard, and that the development will not increase the hazard risk on site or off site.

2. Development shall be directed toward portions of parcels, or parcels under contiguous ownership, that are at the least risk of hazard in preference to lands with higher risk, unless determined to be infeasible in the geotechnical report.
3. The geotechnical report shall incorporate methods to ensure that education about the hazard and any recommended buildable area for future landowners is provided.
4. The applicable requirements of grading and construction permits for developments in hazardous areas must be included in the development proposal and geotechnical report. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.09.060 Critical aquifer recharge areas.

A. Purpose and Intent.

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

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

~~B. Designation. Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or~~

~~contribute significantly to the replenishment of groundwater. The following areas have been identified based on local conditions.~~

- ~~1. Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten-year time of groundwater travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.~~
- ~~2. Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.~~
- ~~3. Susceptible Groundwater Management Areas. Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapter 173-100 WAC.~~
- ~~4. Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.~~
- ~~5. Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.~~
- ~~6. Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology.~~

EB. Mapping Maps and reference documents.

1. Mapping Methodology. The CARA is depicted in the map titled “Critical Aquifer Recharge Areas of the City of Yakima” located within the city of Yakima’s 2017 Urban Area Comprehensive Plan 2040. The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology “Critical Aquifer Recharge Areas Guidance Document” (Morgan, 2005). The approximate location and extent of critical aquifer recharge areas are depicted on the above-mentioned map, and are to be used solely as a guide for the city. The CARA map estimates areas of moderate, high, and extreme susceptibility of 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:

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

2. Wellhead Protection Areas. The CARA map includes those wellhead protection areas for which the city of Yakima has maps. Wellhead protection areas are required for all Class A public water systems in the state of Washington. The determination of a wellhead protection area is based upon the time of travel of a water particle from its source to the well. Water purveyors collect site specific information to determine the susceptibility of the water source to surface sources of contamination. Water sources are ranked by the Washington State Department of Health with a high, moderate, or low susceptibility to surface contamination. Wellhead protection areas are defined by the boundaries of the ten-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.

3. Guidance Documents. The latest guidance documents shall be consulted when updating CARA maps:

- a. U.S. Department of Agriculture Soil Survey:
<http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>
- b. Washington Department of Health Group A and B Maps:
<https://fortress.wa.gov/doh/eh/maps/SWAP/index.html>
- c. Soil Survey of Yakima County Area, Washington (report only):
http://nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/washington/yakimaWA1985/yakimaWA1985-I.pdf
- d. City of Yakima Wellhead Protection Plan: <http://www.yakimacounty.us/669/City-of-Yakima-Wellhead-Protection-Plan>
- e. Hydrogeologic Framework of Sedimentary Deposits in Six Structural Basins, Yakima River Basin, Washington: <http://pubs.usgs.gov/sir/2006/5116/pdf/sir20065116.pdf> and Yakima Basin plate
http://pubs.usgs.gov/sir/2006/5116/pdf/sir20065116_plate4.pdf.

C. Protection Approach

- 1. Classification and Rating of Critical Aquifer Recharge Areas. To promote consistent application of the standards and requirements of this section, critical aquifer recharge areas within the city shall be rated or classified according to their characteristics, function and value, and/or their sensitivity to disturbance.
 - a. Critical Aquifer Recharge Areas Classification. Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water. Wellhead protection involves the management of activities that have a potential to degrade the quality of groundwater produced by a supply well. The city is classified into four wellhead protection zones that are based on proximity to and travel time of groundwater to Group A and Group B water source wells within the city limits, and are designated using guidance from the Washington Department of Health Wellhead Protection Program pursuant to Chapter 246-290 WAC.
 - i. Wellhead Protection Zone 1 represents the land area overlying the six-month time-of-travel zone of any Group A water source well and/or land area overlying any Group B wellhead protection area.
 - ii. Wellhead Protection Zone 2 represents the land area that overlies the one-year time-of-travel zone of any Group A water source well, excluding the land area contained within Wellhead Protection Zone 1.
 - iii. Wellhead Protection Zone 3 represents the land area that overlies the five-year and ten-year time-of-travel zones of any Group A water source well, excluding the land area contained within Wellhead Protection Zone 1 or 2.
 - iv. Wellhead Protection Zone 4 represents all the remaining land area in the city not included in Wellhead Protection Zone 1, 2, or 3.
 - b. Classification of wellhead protection zones shall be determined in accordance with the city's Wellhead Protection Plan and the Washington State Department of Health, Office of Drinking Water, Source Water Assessment Program (SWAP) Mapping Application, which designates time of travel and wellhead protection zones that correspond to Zones 1 through 4, noted in subsection (A)(1) of this section.
- 2. Prohibited Activities in Wellhead Protection Zones.
 - a. Land uses or activities for new development or redevelopment that pose a significant hazard to the city's groundwater resources, resulting from storing, handling, treating, using, producing, recycling, or disposing of hazardous materials or other deleterious substances, shall be prohibited in Wellhead Protection Zones 1 and 2. These land uses and activities include, but are not limited to:
 - i. Large on-site sewage systems, as defined in WAC Chapter 246-272A;

- ii. Hazardous liquid pipelines as defined in RCW Chapter 81.88;
 - iii. Solid waste landfills or transfer stations, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste;
 - iv. Liquid petroleum refining, reprocessing, and storage;
 - v. Bulk storage facilities;
 - vi. Hard rock and sand and gravel mining, unless located within the mineral resource designation;
 - vii. The storage or distribution of gasoline treated with the additive methyl tertiary butyl ether;
 - viii. Hazardous waste treatment, storage, and disposal facilities except those defined under permit by rule for industrial wastewater treatment processes per WAC 173-303-802(5)(a);
 - ix. Chemical manufacturing, including but not limited to, organic and inorganic chemicals, plastics and resins, pharmaceuticals, cleaning compounds, paints and lacquers, and agricultural chemicals;
 - x. Dry cleaning establishments using the solvent perchloroethylene or similarly toxic compounds;
 - xi. Primary and secondary metal industries that manufacture, produce, smelt, or refine ferrous and nonferrous metals from molten materials;
 - xii. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
 - xiii. Mobile fleet fueling operations;
 - xiv. Class I, Class III, Class IV, and the following types of Class V wells: 5A7, 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 as regulated under RCW Chapter 90.48 and WAC Chapters 173-200 and 173-218, as amended;
 - xv. Permanent dewatering of the aquifer for new projects and redevelopment;
 - xvi. Facilities that store, process, or dispose of radioactive substances; and
 - xvii. Irrigation with graywater or reclaimed water.
 - b. Other land uses and activities that the city determines would pose a significant groundwater hazard to Group A and Group B groundwater supplies within the city limits, or would significantly reduce the recharge to aquifers currently or potentially used as a potable water source.
- Ø3. Wellhead Protection Zone Performance Standards—General Requirements.
- 4a. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
 - b. Any uses or activities which involve storing, handling, treating, using, producing, recycling, or disposing of hazardous materials or other deleterious substances shall comply with the following standards that apply to the wellhead protection zone in which they are located. Residential uses of hazardous materials or deleterious substances are exempt from the following standards.
 - c. If a property is located in more than one wellhead protection zone, the director of community development shall determine which standards shall apply based on an assessment evaluation of the risk posed by the facility or activity. The assessment evaluation shall include, but not be limited to: (a) the

location, type, and quantity of the hazardous materials or deleterious substances on the property; (b) the geographic and geologic characteristics of the site; and (c) the type and location of infiltration on the site.

d. Development within Wellhead Protection Zone 1 or 2, and any facility or activity existing as of adoption of this title within which hazardous materials or other deleterious substances are present, shall implement the following relevant performance standards:

i. Secondary Containment.

1. The owner or operator of any facility or activity shall provide secondary containment for hazardous materials or other deleterious substances in aggregate quantities equal to or greater than twenty gallons liquid or two hundred pounds solid or in quantities specified in the Yakima fire code, YMC Chapter 10.05, whichever is smaller.

2. Hazardous materials stored in tanks that are subject to regulation by the Washington State Department of Ecology (Ecology) under WAC Chapter 173-360, Underground Storage Tank Regulations, are exempt from the secondary containment requirements of this section, provided that documentation is provided to demonstrate compliance with those regulations.

ii. Vehicle Fueling, Maintenance, and Storage Areas. Fleet and automotive service station fueling, equipment maintenance, and vehicle washing areas shall have a containment system for collecting and treating all runoff from such areas and preventing release of fuels, oils, lubricants, and other automotive fluids into soil, surface water, or groundwater. Appropriate emergency response equipment and spill kits shall be kept on-site during transfer, handling, treatment, use, production, recycling, or disposal of hazardous materials or other deleterious substances.

iii. Loading and Unloading Areas. Secondary containment or equivalent best management practices (BMPs), as approved by the director of public works, shall be required at loading and unloading areas that store, handle, treat, use, produce, recycle, or dispose of hazardous materials or other deleterious substances in aggregate quantities equal to or greater than twenty gallons liquid or two hundred pounds solid.

iv. Stormwater Infiltration Systems. Design and construction of new stormwater infiltration systems must address site-specific risks of releases posed by all hazardous materials on-site. These risks may be mitigated by physical design means or equivalent BMPs in accordance with an approved hazardous materials management plan. Design and construction of said stormwater infiltration systems shall also be in accordance with YMC Chapter 7.83 and the latest edition of the Stormwater Management Manual for Eastern Washington, approved local equivalent, or another technical stormwater manual approved by Ecology, and shall be certified for compliance with the requirements of this section by a professional engineer or engineering geologist registered in the state of Washington.

v. The record and construction details of any well regulated under Chapter 173-160 WAC, Construction and Maintenance of Wells, and any well excluded per WAC 173-160-010(2) that is constructed or decommissioned in Zones 1 and 2 shall be provided to the department of community development within sixty days of well completion or decommissioning.

vi. Protection Standards during Construction. The following standards shall apply to construction activities occurring where construction vehicles will be refueled on-site and/or the quantity of hazardous materials that will be stored, dispensed, used, or handled on the construction site is in aggregate quantities equal to or greater than twenty gallons liquid or two hundred pounds solid, exclusive of the quantity of hazardous materials contained in fuel or fluid reservoirs of construction vehicles. As part of the city's project permitting process, the city may require any or all of the following items:

1. A development agreement;

2. Detailed monitoring and construction standards;

3. Designation of a person on-site during operating hours who is responsible for supervising the use, storage, and handling of hazardous materials and who has appropriate knowledge and training to take mitigating actions necessary in the event of fire or spill;
4. Hazardous material storage, dispensing, refueling areas, and use and handling areas shall be provided with secondary containment adequate to contain the maximum release from the largest volume container of hazardous substances stored at the construction site;
5. Practices and procedures to ensure that hazardous materials left on-site when the site is unsupervised are inaccessible to the public. Locked storage sheds, locked fencing, locked fuel tanks on construction vehicles, or other techniques may be used if they will preclude access;
6. Practices and procedures to ensure that construction vehicles and stationary equipment that are found to be leaking fuel, hydraulic fluid, and/or other hazardous materials will be removed immediately or repaired on-site immediately. The vehicle or equipment may be repaired in place, provided the leakage is completely contained;
7. Practices and procedures to ensure that storage and dispensing of flammable and combustible liquids from tanks, containers, and tank trucks into the fuel and fluid reservoirs of construction vehicles or stationary equipment on the construction site are in accordance with the Yakima fire code, YMC Chapter 10.05; and
8. Practices and procedures, and/or on-site materials adequate to ensure the immediate containment and cleanup of any release of hazardous substances stored at the construction site. On-site cleanup materials may suffice for smaller spills whereas cleanup of larger spills may require a subcontract with a qualified cleanup contractor. Releases shall immediately be contained, cleaned up, and reported if required under state or federal law. Contaminated soil, water, and other materials shall be disposed of according to state and local requirements.

vii. Fill Materials. Fill material shall comply with the standards in YMC Chapter 7.82 and the following:

1. Fill material shall not contain concentrations of contaminants that exceed cleanup standards for soil specified in WAC 173-340-740, Model Toxics Control Act, regardless of whether all or part of the contamination is due to natural background levels at the fill source site. Where the detection limit (lower limit at which a chemical can be detected by a specified laboratory procedure) for a particular soil contaminant exceeds the cleanup standard for soil specified in WAC 173-340-740, the detection limit shall be the standard for fill material quality.
2. Fill materials in quantities greater than ten cubic yards placed directly on or in the ground in excess of six months shall meet the following requirements:
 - (a) A fill material source statement shall be provided to the department of community development and shall be reviewed and accepted by the department prior to stockpiling or grading imported fill materials at the site. The source statement shall be issued by a professional engineer, geologist, engineering geologist or hydrogeologist licensed in the state of Washington demonstrating the source's compliance with standards of the Model Toxics Control Act. The source statement shall be required for each different source location from which fill will be obtained.
 - (b) Analytical results demonstrating that fill materials do not exceed cleanup standards specified in WAC 173-340-740 may be used in lieu of a fill material source statement, provided the regulated facility submits a sampling plan to, and which is approved by, the director of community development. The regulated facility must then adhere to the approved sampling plan, and maintain analytical data on-site and available for inspection for a minimum of five years from the date that the fill was accepted.

3. The department of community development may accept a fill material source statement that does not include results of sampling and analysis of imported fill if it determines that adequate information is provided indicating that the source location is free of contamination. Such information may include, but is not limited to:

(a) Results of field testing of earth materials to be imported to the site with instruments capable of detecting the presence of contaminants; or

(b) Results of previous sampling and analysis of earth materials to be imported to the site.

4. A fill material source statement is not required if documents confirm that imported fill will be obtained from a Washington State Department of Transportation approved source.

5. The director of community development shall have the authority to require corrective measures regarding noncompliant fill materials, including independent sampling and analysis, if the property owner or operator fails to accomplish such measures in a timely manner. The property owner or operator shall be responsible for any costs incurred by the city in the conduct of such activities.

viii. Cathodic Protection Wells. Cathodic protection wells shall be constructed such that the following do not occur:

1. Vertical cross-connection of aquifers normally separated by confining units;

2. Migration of contaminated surface water along improperly sealed well borings or casings;

3. Introduction of electrolytes or related solutions into the subsurface; and

4. Any of the above conditions caused by improperly abandoned cathodic protection wells that are no longer in use.

ix. Underground Hydraulic Elevator Cylinders. All underground hydraulic elevator pressure cylinders shall be encased in an outer plastic casing constructed of Schedule 40 or thicker-wall polyethylene or polyvinyl chloride pipe, or equivalent. The plastic casing shall be capped at the bottom, and all joints shall be solvent- or heat-welded to ensure water tightness. The neck of the plastic casing shall provide a means of inspection to monitor the annulus between the pressurized hydraulic elevator cylinder and the protective plastic casing.

x. Best Management Practices (BMPs). All development or redevelopment shall implement BMPs for water quality and quantity, as approved by the director of community development, such as biofiltration swales and use of oil-water separators, BMPs appropriate to the particular use proposed, clustered development, and limited impervious surfaces.

e. Development within Wellhead Protection Zone 3 shall implement appropriate BMPs and comply with the performance standards for vehicle fueling, maintenance, and storage areas; loading and unloading areas; well construction and operation; fill materials; cathodic protection wells; and underground hydraulic elevator cylinders in applicable subsections in subsection (C)(4) of this section.

f. Development within Wellhead Protection Zone 4 shall implement BMPs for water quality and quantity.

g. An incremental environmental improvement to a system protective of groundwater shall not alter, expand, or intensify an existing legal nonconformance, but may proceed without having to meet the following city codes:

i. Restrictions associated with critical areas and critical area buffers, if the footprint of the original system protective of groundwater is located within the same critical area buffer, and it can be

demonstrated through BAS that there will be no significant adverse impacts to the critical area and its buffer;

ii. Any requirement to bring all or any portion of the facility or the development it serves up to current building, fire, or land use codes that is triggered by the value or design of the incremental environmental improvement to a system protective of groundwater; and

iii. The incremental improvement shall not qualify as a redevelopment that would otherwise be prohibited by Title 15 YMC. 2.—The proposed activity must comply with the water source—protection requirements and recommendations of the U.S. Environmental Protection Agency,—Washington State Department of Health, and the Yakima County Health District.

E.—Performance Standards—Specific Uses.

1.—Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

a.—Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

i.—Prevent releases due to corrosion or structural failure for the operational life of the tank;

ii.—Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

iii.—Use material in the construction or lining of the tank that is compatible with the substance to be stored.

b.—Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

i.—Not allow the release of a hazardous substance to the ground, groundwaters, or surface waters;

ii.—Have a primary containment area enclosing or underlying the tank or part thereof; and

iii.—Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

2.—Vehicle Repair and Servicing.

a.—Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

b.—No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.

3.—Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.

4.—Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state Departments of Ecology and Health.

~~a.—Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The state Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).~~

~~b.—Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.~~

~~F.—Uses Prohibited from Critical Aquifer Recharge Areas. The following activities and uses are prohibited in critical aquifer recharge areas:~~

~~1.—Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste and inert and demolition waste landfills;~~

~~2.—Underground Injection Wells. Class I, III and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;~~

~~3.—Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);~~

~~4.—Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;~~

~~5.—Mining. Hard rock; and sand and gravel mining, unless located within the mineral resource designation; and~~

~~6.—Other Prohibited Uses or Activities.~~

~~a.—Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;~~

~~b.—Activities that would significantly reduce the recharge to aquifers that are a source of significant base flow to a regulated stream.~~

~~G.—Submittal Requirements.~~

~~1.—Applications for any development activity or division of land which requires review by Yakima County and which is located within a mapped critical aquifer recharge area or wellhead protection area shall be reviewed by the shoreline administrator to determine whether hazardous materials (see definitions) will be used, stored, transported, or disposed of in connection with the proposed activity. If there is insufficient information to determine whether hazardous materials will be used, the shoreline administrator may request additional information, in addition to any submittal requirements outlined in YMC 17.09.010.~~

~~2.—The administrative official shall make the following determination:~~

~~a.—No hazardous materials are involved.~~

~~b.—Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance.~~

~~c.—Hazardous materials are involved and the proposal has the potential to significantly impact critical aquifer recharge and wellhead protection areas; however, sufficient information is not available to evaluate the potential impact of contamination. The city may require a hydrogeologic report to be prepared by a qualified groundwater scientist in order to determine the potential impacts of contamination on the aquifer. (Ord. 2017 017 § 2 (Exh. B) (part), 2017: Ord. 2015 002 § 1 (Exh. A)(part)).~~

Chapter 17.11

EXISTING USES, STRUCTURES AND LOTS

Sections:

- 17.11.005 Intent of provisions.
- 17.11.010 Nonconforming uses.
- 17.11.020 Nonconforming structures.
- 17.11.030 Nonconforming lots.
- 17.11.040 Preexisting legal uses—Conforming residential structures.
- 17.11.050 Additional requirements for certain uses.

17.11.005 Intent of provisions.

Nonconforming uses or developments are shoreline uses or development which were lawfully constructed or established prior to the effective date of this master program, or approved amendments to the master program, but which do not conform to present regulations or standards of the master program. The intent of this chapter is to provide regulations regarding nonconforming uses, structures, and lots as well as to establish residences as preexisting legal uses, conforming to the master program as allowed by the Act. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.11.010 Nonconforming uses.

A. Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded unless expressly allowed by subsection B of this section and YMC 17.11.040.

B. Nonconforming single-family residential uses that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in YMC 17.01.090 upon approval of a shoreline conditional use permit by the hearing examiner.

C. A legally established use, prior to the effective date of the master program, which is listed as a conditional use but for which a shoreline conditional use permit has not been obtained shall be considered a nonconforming use.

D. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit by the hearing examiner. A conditional use permit may be approved only upon a finding that:

1. No reasonable alternative conforming use is practical; and
2. The proposed use will be at least as consistent with the policies and provisions of the Act and the master program and as compatible with the uses in the area as the preexisting use.

In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard. A use authorized pursuant to this subsection D shall be considered a conforming use for purposes of this section.

E. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be required to conform to this title. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.11.020 Nonconforming structures.

A. Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be enlarged or expanded; provided, that said enlargement does not increase the extent of nonconformity by further

encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

B. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

C. A nonconforming structure which is moved any distance must be brought into conformance with the master program and the Act.

D. If a nonconforming development/structure is damaged to an extent not exceeding fifty percent in flood hazard areas and seventy-five percent in the remainder of shoreline jurisdiction of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged; provided, that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.11.030 Nonconforming lots.

A. In any district, any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP; provided, that such structure is allowed within the shoreline environment and all uses of the nonconforming lot shall comply with all other provisions of the SMP and underlying zoning requirements including setbacks, dimensional standards, and lot coverage requirements.

B. Structures and customary accessory buildings on nonconforming lots shall be set back from the OHWM to the greatest extent feasible. Development proposed inside required buffers shall go through mitigation sequencing, shall require a mitigation plan and shoreline variance, per YMC 17.13.080, when unable to meet the provisions of YMC 17.09.030. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.11.040 Preexisting legal uses—Conforming residential structures.

Notwithstanding YMC 17.11.010 to 17.11.030, the following shall apply to preexisting legal residential structures constructed prior to the effective date of this SMP:

A. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or density.

B. The city shall allow redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions.

C. For purposes of this section, “appurtenant structures” means garages, sheds, and other legally established structures. “Appurtenant structures” does not include bulkheads and other shoreline modifications or over-water structures.

D. Nothing in this section:

1. Restricts the ability of this SMP to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or
2. Affects the application of other federal, state, or city requirements to residential structures. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.11.050 Additional requirements for certain uses.

Nonconforming uses and structures not covered by RCW 90.58.270(5), 90.58.620, and not addressed by the SMP must comply with WAC 173-27-080. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

Chapter 17.13

ADMINISTRATION AND ENFORCEMENT

Sections:

- 17.13.010 Roles and responsibilities.
- 17.13.020 Interpretation.
- 17.13.030 Statutory noticing requirements.
- 17.13.040 Application requirements.
- 17.13.050 Exemptions from shoreline substantial development permits.
- 17.13.060 Shoreline substantial development permits.
- 17.13.070 Shoreline conditional use permits.
- 17.13.080 Shoreline variance permits.
- 17.13.090 Duration of permits.
- 17.13.100 Initiation of development.
- 17.13.110 Review process.
- 17.13.120 Appeals.
- 17.13.130 Amendments to permits.
- 17.13.140 SMP amendments.
- 17.13.150 Enforcement.
- 17.13.160 Monitoring.

17.13.010 Roles and responsibilities.

The city shall administer the shoreline master program (SMP), collectively Title 17 and the associated goals and policies contained in Comprehensive Plan Chapter 10, Section 3, according to the following roles and responsibilities:

A. Shoreline Administrator. The shoreline administrator in the city of Yakima is the community development director. The shoreline administrator shall have overall administrative responsibility of the SMP. The shoreline administrator or his/her designee is hereby vested with the authority to:

1. Administrate this SMP.
2. Make field inspections as needed, and prepare or require reports on shoreline permit applications.
3. Grant or deny exemptions from shoreline substantial development permit requirements of this SMP.
4. Authorize, approve or deny shoreline substantial development permits.
5. Authorize, approve or deny shoreline conditional use permits except for those involving nonconforming uses, which shall be the responsibility of the hearing examiner.
6. Make written recommendations to the hearing examiner, planning commission, or city council as appropriate.
7. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.
8. Collect fees for all necessary permits as provided in city ordinances or resolutions. The determination of which fees are required shall be made by the city.
9. Make administrative decisions and interpretations of the policies and regulations of this SMP and the Act in accordance with the Yakima Municipal Code.

B. SEPA Official. The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to Chapter 197-11 WAC and Chapter

43.21C RCW. The responsible SEPA official is designated in accordance with the city's SEPA implementation ordinance.

C. Hearing Examiner. The hearing examiner shall have the authority to:

1. Decide on appeals from administrative decisions issued by the shoreline administrator of this SMP.
2. Grant or deny variances from this SMP.
3. Grant or deny shoreline conditional use permits associated with nonconforming uses.
4. The hearing examiner may, at the request of the shoreline administrator, receive and examine available information, conduct public hearings and prepare records and reports thereof, and issue recommendations to the council based upon findings and conclusions on applications for shoreline substantial development permits and conditional use permits.

D. Planning Commission. The planning commission is vested with the responsibility to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the city's planning and regulatory program, and make recommendations for amendments thereof to the city council.

E. City Council. The city council is vested with authority to:

1. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.
2. Adopt all amendments to this SMP, after consideration of the recommendation of the planning commission, where established. Amendments shall become effective upon approval by Ecology. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.020 Interpretation.

A. The city shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act in accordance with the Yakima Municipal Code.

B. The city shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of Chapter 90.58 RCW and Chapter 173-26 WAC.

C. The application of this SMP is intended to be consistent with constitutional and other legal limitations on the regulation of private property. The shoreline administrator shall give adequate consideration to mitigation measures and other possible methods to prevent undue or unreasonable hardships upon property owners. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.030 Statutory noticing requirements.

A. Applicants shall follow the noticing requirements of the city. At a minimum, the city shall provide notice in accordance with WAC 173-27-110, and may provide for additional noticing requirements. Per WAC 173-27-120 the city shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extensions and bulkheads.

B. The following subsections provide a summary of noticing days. The city shall consult the most current version of WAC 173-27-110 and 173-27-120 to confirm the days. In case of conflict, state statutes or rules shall control:

1. Issuance of Notice of Application. Notice of application shall be provided within fourteen days after the determination of completeness of the application.
2. Statement of Public Comment Period. The notice of application shall state the public comment period which shall be not less than thirty days following the date of notice of application, unless otherwise specified for limited utility extensions or single-family bulkheads below.

3. Notice of Application Prior to Hearing. If an open record predecision hearing, as defined in RCW 36.70B.020, is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.
4. Limited Utility Extension or Single-Family Bulkhead. An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to all of the requirements of this chapter except that the following time periods and procedures shall be used:
 - a. The public comment period shall be twenty days. The notice provided shall state the manner in which the public may obtain a copy of the city's decision on the application no later than two days following its issuance;
 - b. The city shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in subsection (B)(2) of this section; and
 - c. If there is an appeal of the decision to grant or deny the permit to the hearing examiner, the appeal shall be finally determined by the hearing examiner within thirty days. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.040 Application requirements.

A. A complete application for a shoreline substantial development, shoreline conditional use, or shoreline variance permit shall contain, at a minimum, the information listed in WAC 173-27-180. In addition, the applicant, including those applying for exemption status, shall provide the following materials:

1. An assessment of the existing ecological functions and/or processes provided by topographic, physical and vegetation characteristics of the site and any impacts to those functions and/or processes, to accompany development proposals; provided, that proposals for single-family residences, as long as they meet the exemption criteria, shall be exempt from this requirement if proposal is located outside required buffers. When the project results in adverse impacts to ecological function and/or processes, a mitigation plan must be provided that describes how proposed mitigation compensates for the lost function or process.
2. Site plan or division of land depicting to scale the location of buildable areas, existing and proposed impervious surfaces (building(s), accessory structures, driveways), and allowed landscaping and yards (including proposed water access trails, view corridors, wildfire defensible space, if applicable), general location of utilities, well and septic system, if applicable, and location of storage and staging of materials and equipment during construction. Plans shall show area calculations of each feature.
3. The location of any mapped channel migration zone floodplain, and/or floodway boundary and critical areas, if known, and respective setback/buffer areas on and within two hundred fifty feet of the vicinity of the project site and all applicable buffers.
4. Where a view analysis is required per WAC 173-27-180, it shall address the following:
 - a. The analysis shall include vacant existing parcels of record as well as existing structures. Vacant parcels of record shall be assumed to be developed with structures complying with the applicable regulations of the city and the maximum height limitation allowed under the SMP.
 - b. The view corridor analysis shall include residential buildings or public properties located outside of the shoreline jurisdiction if it can be clearly demonstrated that the subject property has significant water views.

B. The shoreline administrator may vary or waive these additional application requirements according to administrative application requirements on a case-by-case basis, but all applications for a substantial development, conditional use, or variance permit shall contain the information found in WAC 173-26-180.

C. The shoreline administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other city

requirements, and the provisions of this title. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.050 Exemptions from shoreline substantial development permits.

A. The city shall exempt from the shoreline substantial development permit requirement the shoreline developments listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515.

B. Letters of exemption shall be issued when a letter of exemption is required by the provisions of WAC 173-27-050. Otherwise the exemption status shall be documented in the project application file. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.060 Shoreline substantial development permits.

A. A shoreline substantial development permit shall be required for all development of shorelines, unless the proposal is specifically exempt per YMC 17.13.050.

B. A shoreline substantial development permit shall be granted only when the development proposed is consistent with:

1. The policies and procedures of the SMA;
2. The provisions of Chapter 173-27 WAC;
3. Chapter 10, Section 3 of the City of Yakima Comprehensive Plan; and
4. This Title 17.

C. The city may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the city's ability to require compliance with all other applicable laws and plans. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.070 Shoreline conditional use permits.

A. This section provides procedures and criteria guiding the review of shoreline conditional use permits, which require careful review to ensure the use can be properly installed and operated in a manner that meets the goals of the Act and this program in accordance with any needed performance standards. After a shoreline conditional use application has been approved by the city, the city shall submit the permit to Ecology for Ecology's approval, approval with conditions or denial. Ecology shall review the file, in accordance with WAC 173-27-200.

B. Uses specifically classified or set forth in this shoreline master program as conditional uses shall be subject to review and condition by the city and by the Department of Ecology.

C. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in this SMP.

D. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

E. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized; provided, that the applicant demonstrates all of the following:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
2. That the proposed use will not interfere with the normal public use of public shorelines;
3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP;

4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
5. That the public interest suffers no substantial detrimental effect.

F. In the granting of all shoreline conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

G. In authorizing a conditional use, special conditions may be attached to the permit by the city or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and this SMP.

H. Nothing shall interfere with the city's ability to require compliance with all other applicable plans and laws. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.080 Shoreline variance permits.

A. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this shoreline master program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this shoreline master program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.

B. After a shoreline variance application has been approved by the city, the city shall submit the permit to Ecology for Ecology's approval, approval with conditions or denial. Ecology shall review the file in accordance with WAC 173-27-200.

1. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
2. Variance permits for development and/or uses that will be located landward of the OHWM, as defined in YMC 17.01.090, and/or landward of any wetland as defined in YMC 17.01.090, may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in the SMP precludes, or significantly interferes with, reasonable use of the property;
 - b. That the hardship described in the criterion in subsection (B)(2)(a) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the SMP, and not, for example, from deed restrictions or the applicant's own actions;
 - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP and will not cause adverse impacts to the shoreline environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the public interest will suffer no substantial detrimental effect.
3. Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in YMC 17.01.090, or within any wetland as defined in YMC 17.01.090, may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
- b. That the proposal is consistent with the criteria established under the regulation in subsection (B)(2) of this section; and
- c. That the public rights of navigation and use of the shorelines will not be adversely affected.

C. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.090 Duration of permits.

Time duration requirements for shoreline substantial development, shoreline variance, and shoreline conditional use permits shall be consistent with the following provisions:

A. General Provisions. The time requirements of this section shall apply to all shoreline substantial development permits and to any development authorized pursuant to a shoreline conditional use permit or shoreline variance authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this SMP and this chapter, the city may adopt different time limits from those set forth in subsections B and C of this section as a part of an action on a shoreline substantial development permit.

B. Commencement. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance. Commencement means taking the action on the shoreline project for which the permit was granted shall begin. For example, beginning actual construction or entering into binding agreements or contractual obligations to undertake a program of actual construction. However, the city may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed with a complete extension application submittal before the expiration date and notice of the proposed extension is given to parties of record on the shoreline substantial development permit, shoreline conditional use permit, or shoreline variance and to Ecology.

C. Termination. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance. However, the city may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the shoreline substantial development permit, shoreline conditional use permit, or shoreline variance, and to Ecology.

D. Effective Date. The effective date of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance shall be the date of ~~receipt-filing~~ as provided in RCW 90.58.140(6). The permit time periods in subsections B and C of this section do not include the time during which a use or activity was not actually pursued due to pending administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. The applicant shall be responsible for informing the city of the pendency of other permit applications filed with agencies other than the city and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given by the applicant to the city prior to the date of the last action by the city to grant permits and approvals necessary to authorize the development to proceed, including administrative and legal actions of the city, and actions under other city development regulations, the date of the last action by the city shall be the effective date.

E. Revisions. Revisions to permits may be authorized after original permit authorization has expired; provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

F. Notification to Ecology. The city shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.100 Initiation of development.

A. Amortization To Begin Construction. Each permit for a substantial development, shoreline conditional use or shoreline variance issued by the city shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of ~~receipt filing~~ with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of ~~receipt filing~~ of the decision. The date of ~~receipt filing~~ for a substantial development permit means that date ~~the applicant receives written notice from that~~ Ecology ~~that it has~~ received a final ~~the~~ decision from the City. With regard to a permit for a shoreline variance or a shoreline conditional use, date of ~~receipt filing~~ means the date the city or applicant receives the written decision of Ecology.

B. Forms. Permits for substantial development, shoreline conditional use, or shoreline variance may be in any form prescribed and used by the city, including a combined permit application form. Such forms will be supplied by the city.

C. Data Sheet. A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

D. Construction Prior to Expiration of Appeal Deadline. Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.110 Review process.

A. After the city's approval of a conditional use or variance permit, the city shall submit the permit to the department for Ecology's approval, approval with conditions, or denial. Ecology shall render and transmit to the city and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by the city pursuant to WAC 173-27-110.

B. Ecology shall review the complete file submitted by the city on conditional use and variance permits and any other information submitted or available that is relevant to the application. Ecology shall base its determination to approve, approve with conditions or deny a shoreline conditional use permit or shoreline variance on consistency with the policy and provisions of the SMA and, except as provided in WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.

C. The city shall provide appropriate notification of Ecology's final decision to those interested persons having requested notification from local government pursuant to WAC 173-27-130. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.115 Special procedures for WSDOT projects.

A. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

B. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

17.13.120 Appeals.

A. Administrative review decisions by the administrator, based on a provision of this SMP, may be the subject of an appeal to the hearing examiner by any aggrieved person. Such appeals shall be an open record hearing before the hearing examiner.

B. Appeals of exemptions are allowed only for exemptions where a letter is required pursuant to YMC 17.13.050.

C. Appeals must be submitted within fourteen calendar days after the date of decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:

1. The decision or interpretation being appealed, including the file number reference and the specific objections in the decision document;
2. The name and address of the appellant and his/her interest(s) in the application or proposed development;
3. The specific reasons why the appellant believes the decision or interpretation to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision or interpretation is erroneous;
4. The specific relief sought by the appellant; and
5. The appeal fee established by the city.

D. Per WAC 173-27-120, the city shall comply with special procedures for limited utility extensions and bulkheads. If there is an appeal of the decision to grant or deny the permit to the hearing examiner, the appeal shall be finally determined by the hearing examiner within thirty days.

E. Appeals to the shoreline hearings board of a final decision on a shoreline substantial development permit, shoreline conditional use permit, shoreline variance, or a decision on an appeal of an administrative action may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within twenty-one days of ~~receipt~~ filing of the final decision by the city or by Ecology as provided for in RCW 90.58.140(6). (Ord. 2017-017 § 2 (Exh. B) (part), 2017; Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.130 Amendments to permits.

A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP, and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

B. When an applicant seeks to revise a permit, the city shall request from the applicant detailed plans and text describing the proposed changes. Proposed changes must be within the scope and intent of the original permit, otherwise a new permit may be required.

C. If the city determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this SMP and the Act, the city may approve a revision.

D. “Within the scope and intent of the original permit” means all of the following:

1. No additional over-water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;
2. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

3. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a shoreline variance granted as the original permit or a part thereof;
4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this SMP;
5. The use authorized pursuant to the original permit is not changed; and
6. No adverse environmental impact will be caused by the project revision.

E. The revision approval, including the revised site plans and text clearly indicating the authorized changes, and the final ruling on consistency with this section shall be filed with Ecology. In addition, the city shall notify parties of record of their action.

F. If the revision to the original permit involves a shoreline conditional use permit or shoreline variance, the city shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Ecology shall render and transmit to the city and the applicant its final decision within fifteen days of the date of Ecology's receipt of the submittal from the city. The city shall notify parties of record of Ecology's final decision.

G. The revised permit is effective immediately upon final decision by the city or, when appropriate per subsection F of this section, upon final action by Ecology. Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline.

1. Filing. Appeals of a revised permit shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one days from the date of ~~receipt~~ filing of the city's action by Ecology or, when appropriate under shoreline variances or conditional uses, the date Ecology's final decision is transmitted to the city and the applicant.
2. Basis of Appeals. Appeals shall be based only upon contentions of noncompliance with the provisions of subsections A and B of this section. Appeals shall be based on the revised portion of the permit.
3. Risk. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline.
4. Scope of Decision. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.140 SMP amendments.

A. This shoreline master program carries out the policies of the Shoreline Management Act for the city. It shall be reviewed and amended as appropriate in accordance with the review periods required in the Act and in order to:

1. Assure that the master program complies with applicable law and guidelines in effect at the time of the review; and
2. Assure consistency of the master program with the city's comprehensive plan and development regulations adopted under Chapter 36.70A RCW, if applicable, and other local requirements.

B. This SMP and all amendments thereto shall become effective fourteen days from the date of Ecology's written notice of final approval.

C. The SMP may be amended annually or more frequently as needed pursuant to the Growth Management Act.

D. Initiation. Future amendments to this shoreline management plan may be initiated either by any person, resident, property owner, business owner, governmental or nongovernmental agency, shoreline administrator, planning commission, or city council as appropriate.

E. **Application.** Applications for shoreline master program amendments shall specify the changes requested and any and all reasons therefor. Applications shall be made on forms specified by the city. Such applications shall contain information specified in the city's procedures for comprehensive plan and development regulation amendments pursuant to Chapter 36.70A RCW, the Growth Management Act, and information necessary to meet minimum public review procedures in subsection F of this section.

F. **Public Review Process—Minimum Requirements.** The city shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act, Growth Management Act, and implementing rules including, but not limited to, RCW 90.58.080, [WAC 173-26-090](#), WAC 173-26-100, [WAC 173-26-104](#), RCW 36.70A.106 and 36.70A.130, and Part Six, Chapter 365-196 WAC.

G. **Roles and Responsibilities.** Proposals for amendment of the shoreline management plan shall be heard by the planning commission. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the shoreline administrator, the planning commission shall submit its recommendation to the city council, who shall approve or deny the proposed amendment.

H. **Finding.** Prior to approval, the city shall make a finding that the amendment would accomplish subsections (H)(1) or (2) of this section, and must accomplish subsection (H)(3) of this section:

1. The proposed amendment would make this program more consistent with the Act and/or any applicable Department of Ecology Guidelines;
2. The proposed amendment would make this program more equitable in its application to persons or property due to changed conditions in an area;
3. This program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the effective date of this SMP.

I. After approval or disapproval of a program amendment by the Department of Ecology as provided in RCW 90.58.090, Ecology shall publish a notice that the program amendment has been approved or disapproved by Ecology pursuant to the notice publication requirements of RCW 36.70A.290. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.150 Enforcement.

The city shall apply Chapter 173-27 WAC, Part II, Shoreline Management Act Enforcement, to enforce the provisions of this SMP whenever a person has violated any provision of the Act, this SMP, or other regulation promulgated under the Act. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

17.13.160 Monitoring.

A. The city will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked using the city's permit system include development, conservation, restoration and mitigation, such as:

1. New shoreline development.
2. Shoreline variances and the nature of the variance.
3. Compliance issues.
4. Net changes in impervious surface areas, including associated stormwater management.
5. Net changes in fill or armoring.
6. Net change in linear feet of flood hazard structures.
7. Net changes in vegetation (area, character).

B. Using the information collected per subsection A of this section, a no net loss report shall be prepared every eight years as part of the city's shoreline master program evaluation or comprehensive plan amendment process. Should the no net loss report show degradation of the baseline condition documented in the city's shoreline analysis report, changes to the SMP and/or shoreline restoration plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

APPENDIX [BA](#): DESIGNATED TYPE 2 STREAM CORRIDORS

The following stream reaches within Yakima County are designated critical areas under the City of Yakima's Critical Areas in Shoreline Jurisdiction (YMC Chapter 17.09) [or the City of Yakima's Critical Areas Ordinance \(YMC Ch. 15.27\)](#):

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.
5. Cowiche Creek: that portion which is not designated Type 1.
6. Spring Creek and associated tributaries.

(Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).