

ORDINANCE NO. 2023-027

AN ORDINANCE amending Yakima Municipal Code Title 16 – Administration of Development Permit Regulations to incorporate text amendments recommended by the City of Yakima Planning Commission

WHEREAS, the Planning Commission of the City of Yakima has considered amendments to modify Title 16 – Administration of Development Permit Regulations; and

WHEREAS, notice of all amendments to YMC Sections 16.05.020 and 16.05.030, hereinafter “Amendments,” to fulfill the requirements of RCW 36.70A.130 was sent to the Washington State Department of Commerce and received by the same on April 13, 2023; and

WHEREAS, the Planning Commission held eleven study sessions for these amendments on August 24, 2022; September 28, 2022; October 12, 2022; October 26, 2022; December 14, 2022; January 11, 2023; February 8, 2023; February 22, 2023; March 8, 2023; March 22, 2023; and April 12, 2023; and

WHEREAS, the Planning Commission held an open record public hearing on May 10, 2023 pursuant to notice and has received and considered all evidence and testimony presented; and

WHEREAS, the Planning Commission, having conducted such public hearing, found, determined, and recommended that the City Council approve such amendments as indicated in the signed recommendation dated May 15, 2023; and

WHEREAS, the City Council held a public hearing on June 20, 2023 pursuant to notice to consider such amendments as recommended by the Planning Commission; and

WHEREAS, the City Council of the City of Yakima, having considered the record herein, the testimony provided at the public hearing, and the recommendation from the Planning Commission, hereby finds and determines that approval of these amendments is in the best interests of residents of the City of Yakima and will promote the general health, safety and welfare; now, therefore

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Amendments to Replace and Supersede. The proposed amendments to YMC Sections 16.05.020 and 16.05.030, as contained in Exhibit “A” respectively attached hereto and fully incorporated herein, shall replace and supersede previous versions of the referenced documents.

Section 2. Adoption of Planning Commission Findings. The findings within the May 15, 2023 signed Yakima Planning Commission’s Recommendation, regarding this proposed text amendments are hereby adopted by the Yakima City Council as its findings in support thereof pursuant to YMC § 16.10.095, and are incorporated herein by this reference as if fully set forth herein.

Exhibit "A"

16.05.020 Contents of notice of application.

The notice of application shall comply with the notice requirements specified in YMC 16.05.010 and shall include:

- A. The date of the application, the date of the notice of completion for the application, the date the notice of application is issued;
- B. A brief description of the proposed project action, including the project location and city file number;
- C. The location where the application and any studies can be reviewed, including the city website information;
- D. The date when the public comment period ends, which shall be the fourteenth day following the date of notice of application (except projects requiring a public hearing – comments can be submitted up to the hearing date and at the public hearing), and a statement of the right of any person to comment on the application and become a party of record for the application;
- E. The date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
- F. Any other information determined appropriate by the director.

16.05.030 Public comment on the notice of application.

All public comments on the notice of application must be received in the department of community development not later than five p.m. on the fourteenth day after the notice of application is issued. If the fourteen-day public comment period ends on a weekend or holiday, it shall be automatically extended to the end of the next business day. Comments may be mailed, personally delivered or sent by facsimile. Comments should be as specific as possible. Any public comment received by the city of Yakima planning division requesting to become a party of record shall be added to the record and shall be entitled to receive any future notices and/or decisions associated with the application.

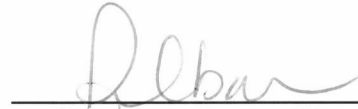
Section 3. Severability/Validity. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Ratification. Any act consistent with the authority, and prior to the effective date of this ordinance is hereby ratified and affirmed.

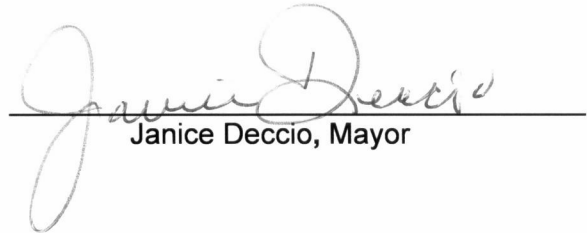
Section 5. Effective Date. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 20th day of June, 2023.

ATTEST:



Rosalinda Ibarra, City Clerk



Janice Deccio, Mayor

Publication Date: June 23, 2023

Effective Date: July 23, 2023



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 10.
For Meeting of: June 20, 2023

ITEM TITLE: Public hearing and Ordinances to consider the Yakima Planning Commission's recommendation regarding 2023 proposed text amendments to Titles 14, 15 and 16

SUBMITTED BY: Joan Davenport, AICP, Community Development Director
*Joseph Calhoun, Planning Manager

SUMMARY EXPLANATION:

On May 10, 2023, the Yakima Planning Commission conducted an open-record public hearing regarding the proposed text amendments. No comments were received during the open record public hearing. On May 15, 2023, the Yakima Planning Commission Chair signed the Recommendation to approve the proposed amendments.

Council, please bring your copy of the Complete Record which was distributed at the June 6, 2023 Council Meeting.

ITEM BUDGETED: NA

STRATEGIC PRIORITY: Neighborhood and Community Building

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Conduct public hearing and pass ordinances.

ATTACHMENTS:

Description	Upload Date	Type
❑ Ordinance: Title 14	5/25/2023	Ordinance
❑ Ordinance Title 15	5/26/2023	Ordinance
❑ Ordinance Title 16	6/1/2023	Ordinance
❑ Track Changes	6/1/2023	Backup Material

City of Yakima 2023 Text Amendments

Complete Track Changes Summary

June 20, 2023

1. YMC Code Changes – Track Changes Summary

YMC Code Changes – Summary of Changes

15.02.020 Definitions.

“Home occupation, business administration” means the accessory use of a dwelling as an administrative office for a licensed commercial business located in an approved commercial zoning district, or a home based Internet business that does not involve the on-site resale of commercial goods. The home is used for phone calls, mail, completing paperwork, and work on a home computer associated with a business. This definition does not include manufacturing, sales not associated with an Internet business, repair or other services.

“Home occupation, home office” means the accessory use of a dwelling for office use including, but not limited to, the following professions: accountant, architect, artist, author, arts and crafts, attorney, composer, dressmaker, seamstress, tailor, engineer, insurance agent, photographer, music teacher, and real estate agent.

“Home occupation, Product assemblage/repair” means a business or service involved in assembling products for off-site sales. This definition also includes the repair of small appliances, small engines, radios, televisions, and other similar items.

“Mixed-use building and Downtown Business District Multifamily Development” means a building or use in a commercial district or planned development, meeting the standards contained in YMC 15.09.025, used partly for residential use and partly for a community facility or commercial use.

15.04.120 Home occupations.

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

1. Ensure the compatibility of home occupations with other uses permitted in the ~~residential districts~~underlying zone; and
2. Preserve the existing dwelling as the primary use of the structure or property; and
- ~~23.~~ Maintain and preserve the character of residential neighborhoods; and
- ~~34.~~ Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

B. Table of Permitted Home Occupations. Table 4-2 titled “Table of Permitted Home Occupations” is incorporated as a part of this section. Each permitted home occupation listed in Table 4-2 is designated as a Class (1), (2) or (3) use for a particular ~~residential zoning district~~. Proposed Home Occupations in existing dwellings in the commercial and industrial zoning districts shall follow the land use requirements of the R-3 zoning district. All permitted home occupations are subject to the standards of this title, including the specific conditions of

subsection C of this section and the applicable review procedures of YMC Chapters 15.13, 15.14 and 15.15. Specific uses not permitted as home occupations are listed in subsection H of this section.

Table 4-2. Table of Permitted Home Occupations

	Zoning District				
	SR	R-1	R-2	R-3	B-4
Accountant	4	4	4	4	-
Architect	4	4	4	4	-
Artist, author, arts and crafts	4	4	4	4	-
Attorney	4	4	4	4	-
Barbershop, beauty parlor	2	2	2	2	-
Short term rental*	1	1	1	1	-
Business administration*	1	1	1	1	-
Cabinet, mill work, carpentry work	2	-	-	-	2
Catering service	2	2	2	2	2
Ceramics and sculpting	2	2	2	2	-
Composer	4	4	4	4	-
Day care, family home*	1	1	1	1	4
Dentist	1	2	2	2	-
Dog grooming	2	3	3	3	3
Dressmaker, seamstress, tailor	4	4	4	4	-
Engineer	4	4	4	4	-
Food preparation*	1	2 ¹	1	1	4
Home contractor*	1	1	1	1	4
Home instruction* 1—5 students	1	1	1	1	4
6—8 students	2	2	2	2	2
Home office*	1	1	1	1	
Insurance agent	4	4	4	4	-
Locksmith and Gunsmith	1	2 ¹	2 ¹	1	4
Photographer (not including productions studio)	4	4	4	4	-
Physician	1	2	2	2	
Product assemblage/service*	1	2	2	2	4
Massage therapy/spa*	1	1	1	1	4
Music teacher	4	4	4	4	-
Production of small articles by hand without the use of automated or production line equipment	4	2	2	2	-

Table 4-2. Table of Permitted Home Occupations

	Zoning District				
	SR	R-1	R-2	R-3	B-4
Radio, television and small appliance repair	2	2	2	2	-
Real estate agent	4	4	4	4	-
Secretarial, phone answering, desktop publishing service*	4	4	4	4	-
Small engine repair	2	-	-	-	-
Taxicab operator*	1	1	1	21	4
Wedding service	2	2	2	2	2
Unclassified home occupation	See YMC <u>15.04.120(G)</u>				
NOTES:					
* Refers to definition in YMC Chapter <u>15.02</u> .					
1 = Type (1) Permitted Home Occupation					
2 = Type (2) Review and Approval by the Administrative Official Required					
3 = Type (3) Review, Public Hearing and Approval by the Hearing Examiner Required					
χ = Not Permitted					

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

1. The home occupation is conducted inside a structure within property on which is established the primary residence of the practitioner(s). For the purpose of administering this section, "primary residence" shall be defined as the residence where a person or persons resides for the majority of the calendar year;
2. The home occupation is incidental and subordinate to the residential functions of the property. No action related to the home occupation shall be permitted that impairs reasonable residential use of the dwelling;
3. There are no external alterations to the building which change its character from a dwelling;
4. The portion of the structure or facilities in which a home occupation is to be sited must be so designed that it may be readily converted to serve residential uses;
5. The business is conducted in a manner that will not alter the normal residential character of the premises by the use of color, materials, lighting and signs, or the emission of noise, vibration, dust, glare, heat, smoke or odors;
6. The home occupation does not generate materially greater traffic volumes than would normally be expected in the residential neighborhood; the frequency of deliveries should be comparable to that of a single-family home without a home business;
7. There is no outside storage or display of any kind related to the home occupation;

8. The home occupation does not require the use of electrical or mechanical equipment that would change the fire rating of the structure;
9. The home occupation does not require the use of electrical equipment that exceeds FCC standards for residential use;
10. The home occupation does not increase water or sewer use so that the combined total use for the dwelling and home occupation is significantly more than the average for residences in the neighborhood;
11. A business license is purchased where required;
12. The home occupation is conducted only by immediate family members residing in the dwelling;
13. All stock in trade kept for sale on the premises is produced on site by hand without the use of automated or production line equipment.

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

D. **Materials and Storage.** The storage of equipment, materials, or goods shall be permitted in connection with a home occupation provided such storage complies with the following standards:

1. All equipment, materials, or goods shall be stored completely within the space designated for home occupation activities and not visible from the public right-of-way.
2. Only those materials or goods that are utilized or produced in connection with the home occupation may be stored within the dwelling unit or accessory building.
3. All flammable or combustible compounds, products, or materials shall be maintained and utilized in compliance with fire code.
4. The frequency of home deliveries should be comparable to that of a single-family home without a home occupation associated with the residence.
- ~~5. A home occupation permit application (including a site plan) shall be supplied to and approved by the city of Yakima planning division prior to operation of any home occupation.~~

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

F. **Application Fee and Review Period.** Application for a home occupation shall be made in accordance with the provisions of YMC Chapter 15.11, except as noted, and shall be accompanied by the appropriate filing fee. The administrative official may accept an aerial photo of the site ~~waive part or all in lieu of the requirements for a site plan for Class (1) home occupations~~ when the aerial photo clearly shows all structures and parking areas and no new construction or site modifications are proposed.

G. **Unclassified Home Occupation—Review by the Hearing Examiner.** Home occupations not listed in Table 4-2 shall be reviewed by the hearing examiner in accordance with the provisions of YMC Chapter 15.22; provided, any unclassified home occupation permitted after review and

decision by the hearing examiner in a particular district shall be allowed only as a Class (2) or (3) use.

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

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

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

J. Parking. The administrative official shall determine parking requirements for home occupations, as provided by YMC 15.06.040(B). This determination may be guided by, but not restricted by, the standards of YMC Chapter 15.06.

15.05.030 Creation of new lots—Subdivision requirements.

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

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

1. Assure that residential densities in new subdivisions, multifamily developments, or planned residential developments are compatible with the existing or planned level of public services and the density of the zoning district;

2. Permit the clustering of dwelling units (when clustering occurs, open space shall be provided in accordance with YMC 15.09.030); and
3. Permit a variety of residential dwelling types within a development.

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

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

Any fraction of a dwelling unit shall be rounded up to the next whole number if one-half or over or down to the next whole number if less than one-half. Once approved under the provisions of this title, no subdivision, resubdivision, or short subdivision shall be further modified or divided in a manner that will raise the density of the subdivision beyond the maximum number of dwelling units permitted per net residential acre by Table 5-2; provided, that development exceeding the maximum number of dwelling units per net residential acre may be allowed in accordance with Table 4-1.

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

1. The lots created meet the lot size and lot width requirements established in Table 5-2;
2. The existing structures meet the building area and setback requirements in Table 5-1; and
3. The new density is consistent with the district intent statement and YMC Table 4-1.

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

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

Situation	Required Minimum Lot Size
In the floodplain, airport, and greenway overlay districts:	One acre (provided the minimum lot size of the underlying zoning district shall apply, when, in the opinion of the reviewing official, the lot has a buildable area outside the overlay district and a plat restriction prohibits

Situation	Required Minimum Lot Size
	development on that portion of the lot within the overlay district).
Individual water system and individual sewer system:	One-half acre.
Public or community water system and an individual sewer system:	14,500 square feet.
Individual water system and the regional or an approved community sewer system:	9,600 square feet.
Public or community water system and the regional or an approved community sewer system:	See Table 5-2.

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

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

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

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

E. **Concurrent Subdivision and Zoning Review Required.** Any application for a long subdivision which proposes a use or configuration of land or improvements requiring Type (1), (2) or (3) review under this title shall, at or prior to the filing of such application, also file an application for such review under this title. Such application shall be heard by the hearing examiner concurrently with the subdivision application using the procedures for Type (3) review.

Table 5-1. Design Requirements and Standards

SITE DESIGN REQUIREMENTS AND STANDARDS			ZONING DISTRICTS														
			SR	R-1	R-2	R-3	HB	B-1	B-2	SCC	LCC	CBD	GC	AS	RD	M-1	M-2
DEVELOPMENT ON EXISTING LOTS OR PARCELS			See YMC <u>15.05.020</u> and <u>15.19.040</u>														
LOT COVERAGE ¹			60%		80%				85%	90%	100%						
STANDARD STRUCTURE SETBACKS ⁶ (in feet)	FRONT	Arterials ²	60			40											
		Collector Arterials ²	50			30											
		Local Access ²	45														
		Private Road ²	37.50														
		Private Access Easement ³	10														
	SIDE	Arterials ²	50			40											
		Collector Arterials ²	40			30											
		Local Access ²															
		Private Road ²	32.50														
		Private Access Easement ³ , Alley, or Property Line ⁷	5	10 ⁸	0												
		Residential District ⁴	5		20			30									
		or 1/2 building height, whichever is greatest															
	REAR ⁶	Alley or Property Line	15	15	15	0											
		Residential District ⁴				20			30								
		or 1/2 building height, whichever is greatest															
MAXIMUM BUILDING HEIGHT (in feet)			35		50	35			50	N/A	50	N/A					
STANDARD FENCE HEIGHT ⁶			See YMC <u>15.05.020</u> (G)														
STANDARD SCREEN HEIGHT	In Required Front Setbacks		Not Permitted														
	Behind Required Front Setbacks		15														

NOTES:

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

Table 5-2. Subdivision Requirements

Subdivision Requirements			Zoning Districts													
			SR	R-1	R-2	R-3	HB	B-1	B-2	SCC	LCC	CBD	GC	AS	RD	M-1
Maximum Number of Dwelling Units Permitted per Net Residential Acre			See YMC Ch. 15.04, Table 4-1													Not Permitted
Minimum Lot Size (in square feet) ⁽³⁾	Residential Uses See Definitions in YMC Ch. 15.02	Detached S.F. Dwelling	6,000			6,000 Where Permitted										
		S.F. Dwelling, Zero Lot Line ⁽⁴⁾	4,000	3,500												
		S.F. Dwelling, Common Wall														
		Two-Family Dwelling	8,000	7,000												
		Multifamily Dwellings and PD—Residential	Density May Not Exceed Maximum Number of Dwelling Units Permitted per Net Residential Acre													
Permitted Nonresidential Uses ⁽⁵⁾		10,000			5,000		10,000		None			1/2 Acre				
Standard Lot Width ⁽²⁾ (in feet)		ALL Except Common Wall Dwelling (per Unit)	60	50			None								60	
		Common Wall Dwelling (per Unit)	35 Where Permitted													

NOTES:

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

Chapter 15.13

TYPE (1) REVIEW

Sections:

- 15.13.010 Purpose.
- 15.13.020 When required.
- 15.13.025 Central Business District – Type (1) review exemption.
- 15.13.030 Development permit application—Type (1) review.
- 15.13.040 Review procedures.
- 15.13.050 Approval.
- 15.13.060 Denial.
- 15.13.070 Appeals.

15.13.020 When required.

Class (1) uses not requiring Type (2) or (3) review are permitted; provided, that district standards are met. The administrative official shall use the procedures in YMC Chapter 15.13 to review Class (1) uses and associated site improvements for compliance with the provisions and standards of the zoning district in which they are located, unless exempt under YMC 15.13.025. Class (1) uses require Type (2) review when:

- A. All or part of the development, except for agricultural buildings, single-family dwellings, and duplexes, is in the floodplain or greenway overlay districts;
- B. All or part of a development is in the airport overlay (AO);
- C. All or part of a development is in an institutional (IO) or master planned development overlay (PD) and is identified in a development agreement as requiring Class (2) approval;
- D. The proposed use includes hazardous material;
- E. The applicant requests adjustment of one or more of the specific development standards pursuant to YMC 15.10.020; or

F. All or part of the development requires a development plan and/or master plan.

15.13.025 Central Business District – Type (1) review exemption

Change of use proposals within existing buildings in the CBD shall be exempt from Type (1) review when the proposed new use is a Class (1) use under the Retail Trade and Service portion of YMC 15.04.030, Table 4-1. New construction or expansion of Class (1) uses shall follow the Type 1 Review or Modification process, as applicable.

Chapter 15.09 SPECIAL DEVELOPMENT STANDARDS

Sections:

- 15.09.010 Purpose.
- 15.09.020 Special development standards for the district overlays.
- 15.09.025 Mixed-Use Building and Downtown Business District Multifamily Development.
- 15.09.030 Common open space requirements.
- 15.09.035 Cottage housing.
- 15.09.040 Zero lot line development.
- 15.09.045 Accessory dwelling units.
- 15.09.050 Performance standards—Emissions.
- 15.09.060 Special development standards for service stations and other retail uses selling motor fuel.
- 15.09.070 Special requirements for animal husbandry.
- 15.09.080 Special requirements for short term rentals.
- 15.09.090 Special requirements for social card rooms.
- 15.09.100 Private street review requirements.
- 15.09.110 Reasonable accommodations process.
- 15.09.120 Community garden development standards.
- 15.09.200 Adult business.
- 15.09.210 Special requirements for retaining walls.
- 15.09.220 Marijuana uses.

15.09.025 Mixed-Use Building and Downtown Business District Multifamily Development.

A. Purpose and Intent.

1. To provide a streamlined process for new development or redevelopment projects that include a mixture of high density residential along with complimentary retail, commercial, or professional uses at a scale that is compatible with the surrounding neighborhood.
2. These standards shall also apply to new multifamily development or multifamily redevelopment in the Downtown Business District. Multifamily uses within this area shall comply with all of the following development and design standards excluding those which are only relevant to the non-residential portion of a mixed-use building.

- a. For the purpose of implementing this section, the Downtown Business District shall be defined as the Downtown Business District Exempt area – See YMC § 15.06.040, Figure 6-1.

B. Level of Review - Uses.

- 1. Mixed-Use Building and Downtown Business District Multifamily Development is a Class 1 Permitted Use, requiring Type 1 Review, in applicable zones and is determined to be the appropriate level of review for any combination of Class 1 and Class 2 uses listed in those zones.
- 2. Any combination of uses which includes a Class 3 Permitted Use shall undergo Type 2 Review.
- 3. The Mixed-Use Building/Development land use shall not allow any use which is otherwise not permitted in the zone.
- 2.4. A Mixed-Use Building that does not meet the layout requirement of YMC 15.09.025 (D)(1) shall be reviewed based upon its particular uses as listed in Table 4-1.

C. Prohibited Uses. The following uses are prohibited in a Mixed-Use Building/Development project:

- 1. All Wholesale Trade – Storage uses
- 2. All Transportation uses
- 3. All Utilities uses
- 4. All Automotive sales, maintenance and repair, carwash/detailing, paint and body, parts and accessories, and towing uses
- 5. Boats and Marine Accessories
- 6. Farm and Implements, Tools and Heavy Construction Equipment
- 7. Farm Supplies
- 8. Fuel Oil and Coal Distributors
- 9. Lumber Yards
- 10. Nursery
- 11. All Rental uses
- 12. Repairs: Reupholstery and Furniture
- 13. Repairs: Small Engine and Garden Equipment
- 14. Service Station
- 15. Truck Service Stations and Shops

D. Development Standards.

- 1. Mixed-Use Layout. A mixed-use building should not have any residential dwelling units located on the ground floor, whenever feasible. There shall be a minimum of 50% residential dwelling units, and least 80% of the ground floor shall be dedicated for community facility or commercial use.
- 2. Parking.
 - a. Location. Off-street parking shall be located within, behind, below, and/or to the side of the building. Any side of the building that faces a street shall not be fronted by off-street parking.
 - b. Design. Off-street parking shall be screened from view of all abutting public rights-of-way.

- Parking located outside of a structure shall be screened by a 6-foot-tall masonry, decorative block wall, wood fence, or solid landscaping screen.
 - a. Fencing located adjacent to a street right-of-way or pedestrian way shall include a minimum 3-foot landscape strip between the fence and the right-of-way.
- Parking located within a structure, whether attached to or detached from the primary structure, shall be architecturally compatible with the primary structure. Any openings within a parking structure that do not provide pedestrian or vehicular access shall be screened from view with decorative grilles or landscaping.

3. Height Bonus. In the B-1, B-2, and SCC zoning districts, the maximum height of the building (YMC 15.05.030, Table 5-1) may be increased to 50 feet if all of the following are met:

- The majority of the additional building height is used to increase the number of dwelling units;
- The additional building height is necessary to accommodate on-site parking requirements.
- Additional on-site landscaping is provided equaling 15% of the parking area, at a minimum.

E. Design Standards and Guidelines – Downtown Business District.

1. Entrances. Primary pedestrian entrances to the building shall face the street frontage or face common open space which is oriented toward to the street.
2. Windows along streets and pedestrian ways.
 - a. There shall be windows on all sides of the building facing streets and pedestrian ways.
 - b. All floors of a multifamily building, and all floors above the ground floor of a mixed-use building shall contain transparency consistent with the Washington State Energy Code, including both doors and windows.
 - c. The ground floor of a mixed-use building shall contain at least 75% of transparency, including both doors and windows, and shall be visually distinct from the above floors by not repeating the exact dimensions and placement of windows.
3. Blank Walls.
 - a. Defined. "Blank wall" means a wall or portion of a wall that has 4800 square feet of vertical surface area without any building modulation, transparency, or other architectural feature.
 - b. Along streets and pedestrian ways, Aa minimum of 50% of the wall between 3 feet and 12 feet above grade shall be treated with one or more of the following elements:
 - Architectural variation including but not limited to color, material, and/or modulation.
 - Artwork, including murals and signs.
 - Shrubs, trees, trellises, or other landscaping that will be actively maintained.

4. Equipment Screening.

- a. Electrical and mechanical equipment placed on the ground surface or rooftop shall be screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
- b. The height of the parapet and other rooftop elements may be increased in order to achieve this and shall comply with the height restrictions of YMC 15.05.030 and 15.10.020 (D)(1).

5. Parking.

- a. On-site parking shall be installed in accordance with YMC Ch. 15.06, except as follows:
 - i. Buildings in the downtown business district that cannot physically provide on-site residential parking may utilize permitted off-street public parking (YMC § 9.50.200), or off-street private parking through a shared parking agreement.

6. Multifamily Development Limited Downtown. Multifamily development that does not meet the definition of mixed-use located in the Downtown Business District shall comply with the following standards:

- Setbacks:
 - a. New buildings shall have a minimum front yard setback of 10 feet from the property line or have windows that begin at least 3 feet above the elevation of the highest adjoining sidewalk or finished ground surface adjacent to the setback.
- Multifamily development shall not be permitted on any corner lot along Yakima Avenue unless it includes commercial and residential uses.

15.29.040 Permits required.

The following table summarizes the permits required for the various types of wireless facilities that meet the standards of this chapter:

Table 29-1		
Permit Table*		
Type of Use	Permit Type	Approval Type
Co-location/minor modification (no substantial change)	Modification	Administrative (if minor modification)
Co-location/major modification (substantial change in height)	Same as New Towers (depending on location)	Same as New Towers (depending on location)
New antenna (existing noncellular structures, in all zoning districts)	Standard Wireless	Administrative
New tower (public or city-owned property)	Standard Wireless	Administrative/Lease
New tower (commercial or industrial zoning district, more than 300 feet from residential or protected area)	Standard Wireless	Administrative
New tower (in or within 300 feet of residential zoning district)	Standard Wireless—if camouflaged by stealth Wireless CUP**—if not camouflaged by stealth	Administrative or Hearing Examiner
New tower (in or within 300 feet of protected area)	Wireless CUP	Hearing Examiner
Any tower, antennas or modification not meeting standards of this chapter	Wireless Variance	Hearing Examiner
<u>New small wireless facility on existing or replacement utility pole or other structure inside or outside public right-of-way</u>	<u>Small Wireless</u>	<u>Administrative</u>
* Applicable permits include building permits and other permits required for installation.		
** Wireless conditional use permit		

Table 29-1.5

Small Wireless Permit Table		
Type of Use	Permit Type	Approval Type
New small wireless facility in public right-of-way or on existing or replacement utility pole or other structure	Right-of-Way Use (YMC Ch. 8.20)	Administrative
New small wireless facility on new pole outside of the right-of-way	Small Wireless	Administrative

15.29.050 Application submittal/fees.

- A. Standard Wireless Application. A complete application shall consist of the following:
1. A complete application form as provided by the community development department.
 2. The name, address, signature and contact information of the applicant:
 - a. If the applicant is not the landowner, applicant shall provide written authorization signed by the landowner authorizing the applicant to submit for permits on the landowner's behalf. The written authorization signed by the landowner shall contain a statement and acknowledgement by the landowner that the landowner shall be deemed a co-applicant by virtue of such authorization. This requirement does not apply to right-of-way locations.
 - b. If any applicant or co-applicant is a corporation, trust, association, or other organized group or legal entity, it shall provide the date of such creation, and, if a foreign corporation, a copy of the certificate of authority filed with the state of Washington, Secretary of State's Office.
 3. Evidence that the applicant is an FCC-licensed wireless service provider or that it has agreements with an FCC-licensed wireless service provider for use or lease of the support structure.
 4. Legal description of the parcel, if applicable.
 5. Site plan, drawn to scale, clearly indicating the location, type and height of the current or proposed wireless facility, accessory buildings, fencing, trees, landscaping, topographic contours of the site at two-foot intervals, location of utility easements, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, and all other items required in this chapter.
 6. Elevation drawings of the proposed wireless facility, drawn to scale and showing dimensions of the height and width of the facility.
 7. Proposed colors and materials of all components of the proposed wireless facility and of any fencing materials associated with the wireless facility.
 8. State Environmental Policy Act (SEPA) checklist, if required.
 9. A copy of the FCC license for the intended use of the wireless telecommunications facilities.

10. Method of proposed illumination, including a lighting plan showing the location of all proposed outdoor lighting fixtures, including direction and intensity of light, and including manufacturer's "cut-sheets" of all outdoor luminaires.

11. The location of existing or proposed structures, trees, and other significant site features intended to camouflage the facility.

12. A-For new wireless facilities, and existing wireless facilities in which the proposed height increase exceeds that permitted for a minor modification, a letter signed by the applicant stating the wireless facility will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations.

13. ~~Signed-For new wireless facilities, signed~~ documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless facility with the proposed installation will be in full compliance with the current FCC RF emissions guidelines (non-ionizing electromagnetic radiation—NIER). If not categorically excluded, a complete RF emissions study is required to provide verification.

14. Applicable fees.

15. Other information for each permit and structure type as specified in subsection B of this section.

B. Application by Permit Type, Structure Type and Location. In addition to the information required for a standard permit in subsection A of this section, the following information shall be provided for each specified permit type or structure type:

1. New Towers and Base Stations.

a. A current map and aerial showing the location of the proposed tower and/or base station; a map showing the locations and service areas of other wireless service facilities operated by the applicant in the city.

b. The approximate distance between the proposed tower and the nearest residential unit, residentially zoned properties, and protected areas.

c. A statement by the applicant that the design of the tower will accommodate colocation of additional antennas for future users.

d. An affidavit stating that (1) the applicant and landowner agree they will allow co-location of additional wireless facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to market rates, and (2) the applicant and/or landlord agree to remove the facility within ninety days after abandonment.

e. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:

i. They, together with their heirs, successors and assigns, agree to be jointly and severally responsible to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original prestructure condition within the applicable time limits set forth in YMC 15.29.150 following receipt of a letter from the city indicating that the facility is deemed abandoned or in violation of this chapter; and

ii. In the event a permit is issued pursuant to this chapter, they authorize the city to record such affidavit or a memorandum thereof with the Yakima County auditor against title to the property for which the permit was issued.

f. A landscape and irrigation plan showing all methods to landscape, irrigate, and screen the base of new facilities.

g. An explanation of proposed methods of camouflaging (including stealth if applicable) and how the proposed camouflaging reflects conditions of the surrounding site and area.

2. Facilities in Residential Zoning Districts and Protected Areas.

a. A statement describing the applicant's effort to first locate the proposed wireless facilities on a government facility, a private institutional structure (such as a hospital or school), or other appropriate existing structures outside the residential zone or protected area and within a half-mile radius of the proposed site, and explaining why, based upon valid considerations including physical, technological, leasing, or other valid constraints, no more appropriate location is available.

b. A description of any existing buildings taller than thirty-five feet within one-half mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.

c. A statement describing the applicant's effort to first contact the owners of structures in excess of thirty-five feet within a one-quarter-mile radius of the site proposed and which from a location standpoint could meet the technical objectives of the facility in the applicant's network. The statement shall, if applicable, confirm whether the applicant asked for permission to install the antenna on those structures and whether he or she was denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.

3. Modification Permit.

a. Elevation drawings of the existing wireless facility, drawn to scale and showing dimensions of the height and width of the facility (this drawing is required in addition to elevation drawing of proposed facility described under subsection A of this section);

b. A computation and description of proposed modification establishing whether or not such modification constitutes a substantial change in the physical dimensions of the existing facility (if the application is for modification of an existing facility); and

~~c. Written authorization signed by the owner of said facility authorizing its modification. (Required if the applicant is not the owner of the existing wireless facility.)~~

4. Wireless CUP (Conditional Use Permit).

a. An explanation of proposed methods of camouflaging and how the proposed camouflaging reflects conditions of the surrounding site and area.

b. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless conditional use permit prescribed in YMC 15.29.100.

5. Wireless Height Variance.

a. A statement from the applicant describing how he/she believes the proposal addresses the criteria for a wireless height variance prescribed in YMC 15.29.110.

b. A statement describing the requested variance and why it is needed.

~~C. Applicant to Provide Notice. For wireless conditional uses or variances, the city may require applicant to post notice at a location or locations deemed appropriate by the city, and will~~

~~provide notice to the governing body of any affected historic district association or organization. Applicant shall provide an affidavit that all required notices have been posted and published as required. Additionally, and without limitation, the city may use any other means deemed advisable to provide advance notice to the public.~~

D. Fees. The application for a permit listed above shall be accompanied by a filing fee in the amount set forth in ~~Table 29-2~~ YMC 15.26.010. A separate fee is required for each permit type associated with the application.

Table 29-2	
Application Fees*	
Permit Type	Fee
Modification (if minor)	\$300.00
Modification (if major)	\$500.00
Standard Wireless	\$500.00
Small Wireless	\$500 for the first five (5) small wireless facilities in the same application, plus \$100 for each facility beyond five (5)
Wireless Variance	\$1,500.00
Wireless Conditional Use Permit	\$3,500.00
* Separate fee required for each permit type associated with application. For an application requiring a wireless variance and a wireless conditional use permit, both the variance fee and the conditional use permit fee are required.	

15.29.060 Development standards.

A. Modifications to an Existing Wireless Facility or Base Station.

1. Minor Modification/Eligible Facilities Request under 47 CFR Section 1.6100. Any modification of or colocation on an existing wireless facility that does not substantially change the physical dimensions of such tower or base station (as defined in subsection (A)(2) of this section), even if it exceeds the underlying standards of the zoning district, shall be deemed a "minor modification" and shall be administratively approved under a modification permit.

2. Major Modification. Any modification of or colocation on an existing wireless facility that substantially changes the physical dimensions of an existing wireless tower or base station shall be deemed a "major modification." A substantial change occurs if:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on

buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (February 22, 2012).

- (ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- (iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- (iv) It entails any excavation or deployment outside the current site;
- (v) It would defeat the concealment elements of the eligible support structure; or
- (vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (i) through (iv).

3. Clarification of "Substantial Change" under Declaratory Order FCC-CIRC2006-03. The phrase "with separation from the nearest existing antenna not to exceed twenty feet," in the context of permissible tower height increases from adding an antenna, is measured from the top of an existing antenna to the bottom of a proposed new antenna.

4. Major Modification—Required Permits. A major modification shall be processed under the same permit types as new towers located in the same zone and area. (See Table 29-1, Permit Table, or Table 29-1.5)

B. Collocation Capable—New Structures. To reduce the number of antenna support structures needed in the city in the future, the following standards apply to new towers:

1. Requirement and Waiver. New proposed support structures shall be designed to accommodate at least two additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived if such design is not feasible for aesthetic reasons, or necessary to preserve camouflaging or stealth structures in residential or protected areas; or provided, that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible or creates an unnecessary and unreasonable burden, based upon:

- a. The kind of wireless facilities site and structure proposed; or
- b. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; or
- c. Available space on existing and approved towers or other appropriate structures.

2. **Owner Certification.** The owner of a proposed tower, and his/her successors in interest, shall either:

- a. Provide a written statement affirming that a master license agreement with another wireless provider or providers exists stating mutually acceptable terms and conditions for colocation for wireless facilities on the tower and site; or
- b. Provide a written statement affirming that the owner and owner's successors will negotiate in good faith for the colocation and shared use of the proposed tower by other wireless service providers in the future, and shall allow shared use of the tower if another wireless service provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

C. **Collocation Encouraged—Existing Structures.** To minimize adverse visual impacts associated with the proliferation of towers, collocation of wireless facilities on existing towers and structures is encouraged as follows:

1. Collocation is permitted by right under a modification permit, unless the modification constitutes a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012/47 CFR Section 1.6100. Changes to tower height that constitute a "substantial change" as defined by subsection (A)(2) of this section are subject to all provisions applicable to new towers and base stations described in this chapter.
2. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on a suitable existing structure or tower within one-quarter mile of the proposed facility.
3. All wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors.

D. **Required Parking.** Adequate parking shall be required for maintenance workers.

E. **Facilities in or within Three Hundred Feet of Residential Zone or Protected Area.** The following standards apply to wireless facilities within residential zoning districts, and within three hundred feet of residential zoning districts:

1. **Due Diligence Requirements.** Applications to place antennas and towers in residential zoning districts or within three hundred feet of residential zoned districts shall demonstrate that the requirements of YMC 15.29.050(B)(2) have been met.
2. **NEPA Requirements.** Antennas and tower facilities proposed to be located in or within three hundred feet of an established or pending federal, state or local historic district or historic district overlay are facilities that may affect districts, sites, buildings, structures or objects significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places. (See 16 U.S.C. 470w-5; 36 CFR Parts 60 and 800.) Applicant shall comply with applicable provisions of the National Environmental Policy Act (NEPA), including but not limited to the environment assessment provisions of 47 CFR 1.1307 et seq. and comply with any mitigations imposed therein.
3. **Certificate of Appropriateness Required.** New wireless facilities, and any modification to existing wireless facilities that constitutes a "substantial change" pursuant to subsection

(A)(2) of this section, proposed to be located in a local historic district, historic district overlay, or other protected historic site, listed in the city of Yakima registry of historic places, require a certificate of appropriateness from the Yakima historic preservation commission in accordance with the procedures set forth in Chapter 11.62 YMC prior to the issuance of any permit for the construction, installation or major modification of wireless facilities in such areas.

F. Building Permits Required. Issuance of wireless facility permits under this chapter shall authorize issuance of any necessary and appropriate building permits to accomplish such modification, subject to compliance with applicable permit requirements and fees. Applicant shall submit complete applications for all other construction permits necessary to accomplish the construction.

G. Small Wireless Facilities.

1. Small wireless facilities- located on a new pole outside of the public right-of-way shall conform to the design criteria of YMC 15.29.070(B).
2. Small wireless facilities installed on new poles shall only be permitted if the applicant can show that the small wireless facility cannot otherwise be installed on an existing pole or structure in the public right-of-way within the area that the small wireless facility is proposed to serve.
3. Small wireless facilities located in the public right-of-way, whether on an existing utility pole or on a new structure, shall comply with the following:
 - a. Small wireless facilities shall apply for and obtain a right-of-way use permit pursuant to YMC 8.20 prior to any placement or construction;
 - b. Small wireless facilities placed in the public right-of-way shall not obstruct bicycle, pedestrian, or vehicular access where access currently exists or is proposed to exist in the future.
 - ~~b.c.~~ Small wireless facilities placed in the public right-of-way shall not result in the removal of existing street trees.
 - ~~c.d.~~ Small wireless facilities placed in the public right-of-way and/or on public structures shall require a franchise agreement, master license agreement, or other legally-binding contract if the city deems appropriate.
 - ~~d.e.~~ Permitting small wireless facilities on city-owned infrastructure including street lights and traffic signals shall be determined by the director of public works.
4. Priority of Structure Type. The order of priorities for locating new small wireless facilities in the public right-of-way shall be as follows:
 - a. Existing pole or other structure.
 - b. Replacement pole of an existing streetlight.
 - c. Replacement pole or structure of something other than a streetlight that provides an additional function beyond providing small wireless service.
 - d. New pole or structure where one is not currently located that provides an additional function beyond providing small wireless service.

- e. Pole or structure that will operate solely as a small wireless facility with no additional function.

Small wireless facilities may be modified under the modification procedures of YMC 15.29.120 (GD).

15.29.070 Design criteria.

A. All wireless facilities, except small wireless facilities subject to YMC 15.29.070(B) below, shall comply with the following standards:

1. Setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. Except as otherwise set forth below, setbacks for facilities shall comply with the setback requirements of Chapter 15.05 YMC and Table 5-1.
 - a. Right-of-Way Setback Exception. The setback requirement is not applicable if the antenna and antenna support structure are located in the city right-of-way.
 - b. Protected Areas. In protected areas or where a proposed tower is on property abutting a protected area, towers shall be set back from all property lines a distance equal to one hundred ten percent of tower height as measured from ground level.
 - c. Residential Zoned Districts. In residential zoned districts or where a proposed tower is on property abutting a residential zoned district, towers shall be set back a minimum of one-half the tower height.
 - d. Minor Modifications. Any expansion of a base station or extension of height of an existing wireless facility that constitutes a minor modification shall be considered in compliance with the setback requirements previously approved for the existing wireless facility.
 - e. Existing Wireless Facility on Established Lot—Exception. The setback requirement is not applicable if the antenna and antenna support structure were constructed, or application for such construction vested, on a parcel created pursuant to RCW 58.17.040(8) prior to the effective date of this code. Wireless facilities constructed on and after the effective date of this code on parcels created pursuant to RCW 58.17.040(8) are subject to the setback requirements.
2. Tower and Antenna Height. The maximum height of a wireless facility is as follows:
 - a. In or within three hundred feet of a residential zoning district or protected area, no wireless facility shall exceed the height allowed by the underlying height limitation for the zoning district in which the facility is located, except that if the facility is camouflaged by stealth pursuant to subsection 8 of this section, the maximum height is sixty feet.
 - b. In CBD and B-1 zoning districts, the maximum height is sixty feet.
 - c. In all other zones, the maximum height is one hundred ten feet.
 - d. Structures that exceed the above height limits may be permitted by variance pursuant to the wireless height variance provisions of YMC 15.29.110.
3. Color. Towers shall have a dark color such as forest green, charcoal or dark brown, depending on the surroundings or background, which minimizes their visibility, unless a different color is required by the FAA. Colors shall be maintained and repainted as necessary to maintain original color, to repair fading through weathering, and to prevent flaking.

4. **Lights, Signals and Signs.** No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

5. **Fencing and Security.** The antenna support structure shall be secured against unauthorized entry. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by dense vegetative screen at least eight feet in depth along all visible portions of the fence.

6. **Anti-Climbing Device.** All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

7. **Camouflage Requirements.** All new towers and base stations, and major modifications to towers and base stations, must be camouflaged as defined by this chapter. Appropriate camouflaging is determined on a site-specific basis, taking into account existing structures and natural features both on and surrounding the site. When considering surrounding features that the facility is designed to reflect, nonconforming structures shall not be considered. In all zones, towers shall be camouflaged using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. Camouflaging for new towers and base stations shall include the following:

a. **Landscaping.** Landscaping is an element of camouflage. Landscaping, as described herein, shall be required to buffer wireless facilities to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other on-site features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, or if the antenna is otherwise camouflaged by stealth, landscaping shall not be required.

b. **Buffers.** The visual impacts of a wireless facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures:

i. A row of trees a minimum of six feet tall at planting a maximum of six feet apart shall be planted around the perimeter of the fence.

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. To the extent feasible, the tower or mount shall be placed amongst and adjacent to the drip line of three or more trees at least seventy-five percent of the height of the facility.

iv. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

c. **Continued Maintenance.** Applicant shall have a continuing obligation to maintain the landscaping improvements. In the event that landscaping is not maintained at the

required level, the city after giving thirty days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full, or may seek enforcement through any available remedy.

d. **Trees—Recording of Conditions.** To ensure that trees associated with camouflaging and screening are preserved, the following note shall be recorded on the property title:

All trees within 50 feet of the wireless facility located on this property, which serve to screen the wireless facility, shall be retained for the life of the wireless facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed. The City may require the trees to be replaced by the telecommunication provider.

8. **Stealth Requirements.** Any facility in or within three hundred feet of residential zoning district or protected area must be concealed within a stealth structure unless otherwise approved through a wireless conditional use permit. Stealth structures shall be designed as follows:

- a. The stealth camouflage structure or facility must be compatible with surrounding development by being either similar in height to surrounding structures or a sufficient distance from surrounding structures to create a significant visual separation.
- b. Stealth designs shall reflect features that are indigenous to the area.
- c. Towers designed to look like trees shall be tree types that naturally or commonly occur in the surrounding neighborhood or district, shall be located within one hundred feet of existing trees, and shall not exceed the average height of nearby trees by more than thirty feet. Towers that only add artificial branches, limbs, or other vegetative features while still maintaining the appearance of a standard tower are not considered stealth designs.
- d. Towers designed to look like buildings or structures must be of a design that reflects local architecture or structure types. Towers designed to look like steeples on church shall be of a height and scale proportional to the building design (other churches in the area can provide examples of acceptable proportions between the size of the steeple and the size of the church buildings);
- e. Towers designed to look like flag poles shall be tapered and have the common dimensions of flag poles, both in height and girth, and shall fly at least one flag.
- f. After completion of construction, the antennas, towers and related facilities will be maintained within the stealth structure so as to be concealed from view or be viewed as the camouflaging stealth structure; and
- g. The administrator may impose other conditions or mitigations reasonably related to such structures as warranted by special conditions of the subject property and the type of camouflaging structure, including but not limited to additional or supplemental setback requirements, maintenance requirements, and other measures intended to accomplish the purposes of this chapter and section.

9. **Antenna Criteria.** Antennas on or above a structure shall be subject to the following:

- a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.
 - b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must for technical reasons. In no event shall an antenna project more than sixteen feet above the roofline, including parapets.
 - c. The total height of the antenna shall comply with the height standards of YMC 15.29.070(A)(2), except as noted in this chapter.
 - d. The antenna, brackets, and cabling shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
 - e. Future or multiple installations of antennas shall ensure balance and symmetry when placing additional antennas on the façade of the building.
 - f. The antenna may be attached to an existing mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
 - g. The antenna may be mounted on the roof if the following additional criteria are satisfied:
 - i. The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
 - ii. Roof mounted antenna and related base stations are screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
 - iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.
 - iv. If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.
 - v. Antenna, antenna arrays, and support structures shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to comply with applicable building code standards. The antenna, antenna array, and their support structure shall be a color that matches the field or trim color of the structure on which they are mounted.
10. **Guy Wires Restricted.** No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.
11. **Equipment Structures.** The standards for equipment structures (base stations) are as follows:
- a. **Ground Structure.**

- i. The maximum floor area is five hundred square feet and the maximum height is twelve feet, unless the applicant demonstrates that a larger area and/or increased height is necessary to accommodate the proposed facility and possible colocation.
 - ii. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.
 - iii. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.
 - b. Roof Mounted Structure.
 - i. Equipment buildings mounted on a roof shall be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof mounted antenna may also be located within the building on which the antenna is mounted.
 - ii. Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent of the total roof area of the building the facility is mounted on, which may vary if co-location and adequate camouflage are used.
- B. Small wireless facilities shall comply with the following standards:
- 1. Height. Small wireless facilities shall conform to the following height limitations:
 - a. are mounted on structures 50 feet or less in height including antennas, or
 - b. are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - c. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
 - 2. Size. Small wireless facilities shall meet the following size limitations:
 - a. Each antenna associated with the deployment is no more than three cubic feet in volume;
 - b. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.
 - 3. Color. The color of the facility, including both antennas and equipment, shall blend in with the structure in which it is being attached to or integrated with, to the extent technically feasible.
 - a. Antennas, brackets, and cabling shall match or be compatible with the color of the equipment, which shall match or be compatible with the color of the structure it is being attached to as closely as possible.
 - b. Replacement poles or structures, and new poles or structures where none are currently located, shall match or be compatible with the color, dimensions, height, and overall design of the pole or structure being replaced or of existing similar nearby poles or structures. If there are no existing nearby poles or structures, the new pole or structure shall comply with the color requirements of YMC 15.29.070 (A)(3).
 - 4. Lighting. Small wireless facilities shall not be illuminated.

5. Noise. Small wireless facilities, along with their associated equipment cabinets and other structures, shall not generate noise to a degree that they violate YMC 6.04.180. Passive cooling of facilities is encouraged.

6. All equipment must be pole mounted. If it is technically infeasible to pole-mount all of the equipment to meet the criteria herein, then equipment may be ground-based in the right-of-way pursuant to the following standards:

a. Any necessary ground-based equipment in an undergrounded area shall be undergrounded.

b. Ground-based equipment not located in an undergrounded area should be undergrounded. If it is technically infeasible to underground the ground-based equipment or to pole-mount the equipment in compliance with the maximum size standards of this section, the ground-based equipment may be located fully or partially above grade; provided, that: (i) the volume of ground-based equipment that is located above grade shall not exceed a maximum of 28 cubic feet; (ii) the ground-based equipment shall be aesthetically compatible with other above-grade utilities (e.g. signal boxes, electrical equipment, etc.) that are located within 600 feet of the pole; and (iii) the ground-based equipment shall not encroach into any areas of required sidewalk.

7. Antenna(s) and equipment shall not constitute an obstruction and shall comply with all applicable codes, laws (including the Americans with Disabilities Act), standards and regulations. In the event of a conflict between these design standards and any applicable health and safety codes, such health and safety codes shall govern, but only to the minimum extent necessary to avoid a violation.

15.29.080 Site selection standards.

The following site selection standards shall apply to all wireless facilities outside of the right-of-way, except for small wireless facilities proposed on an existing or replaced pole.

A. An applicant for a wireless facility, other than a small wireless facility in the ROW, that wishes to locate in a Protected Area or a Discouraged Area shall demonstrate that a diligent effort has been made to locate the proposed wireless facilities on a site, private institutional structure, or other appropriate existing structures more than three hundred feet from residential zoned districts or more than three hundred feet from a protected area, and that, due to valid considerations including physical constraints, site availability, and technological feasibility, no more appropriate location is available. Such antennas, antenna equipment, towers and related facilities may be approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth. Such proposed structures may also be subject to the photo-simulation requirements of YMC 15.29.130 in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

B. Priority of Locations. The order of priorities for locating new wireless service facilities shall be as follows:

1. Collocation (see YMC 15.29.060(B) and (C)).
2. Industrial zoning districts.
3. Public property (see subsection ~~E-D~~ of this section).

4. Existing structures—industrial and commercial zoning districts (e.g., buildings, towers, and water towers).
5. Local business district (B-2) and small convenience center (SCC) zoning districts.
6. Residential zoned districts.
7. Protected areas.

C. Site Selection Criteria.

1. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall evaluate different sites within a one-quarter-mile radius to determine which site will provide the best screening and camouflaging while providing adequate service to satisfy its function in the applicant's system. If the applicant proposes a site that does not provide the best opportunities for screening and camouflaging then the applicant must demonstrate why the facility cannot be located at the site where it can be best screened and camouflaged and why the antenna must be located at the proposed site.
2. Wireless facility installations shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of camouflage.

D. Siting Priority on Public Property.

1. Order of Preference. Where public property is sought to be utilized by an applicant, priority for the use of government-owned land for wireless antennas and towers will be given to the following entities in descending order:
 - a. City of Yakima, except that any facilities proposed for location within the airport safety overlay (ASO) are further subject to the limitations and requirements of Chapter 15.30 YMC;
 - b. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of Yakima and private entities with a public safety agreement with the city of Yakima;
 - c. Other governmental entities, for uses that are not related to public safety; and
 - d. Entities providing licensed commercial wireless services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.
2. Subject to City Discretion. The placement of wireless service facilities on city-owned property is subject to the discretion of the city and approval of lease terms that are acceptable to the city, and must comply with the following requirements:
 - a. The facilities will not interfere with the purpose for which the city-owned property is intended;
 - b. The facilities will have no significant adverse impact on surrounding private property, or any significant adverse impact is mitigated by screening, camouflage or other condition required by city;
 - c. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall

establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;

d. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;

e. The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice the city may require the applicant to remove the facilities at the applicant's expense. Wireless facilities serving essential government services and other government agencies shall have priority over other users;

f. The applicant must reimburse the city for any related costs that the city incurs because of the presence of the applicant's facilities;

g. The applicant must obtain all necessary land use approvals; and

h. The applicant must cooperate with the city's objective to encourage colocations and thus limit the number of cell sites requested.

~~FE.~~ Special Requirements for Parks. The use of city-owned parks for wireless facilities brings with it special concerns due to the unique nature of these sites. The placement of ~~p~~ wireless facilities in a park will be allowed only when the following additional requirements are met:

1. The city parks commission has reviewed and made a recommendation regarding proposed wireless facilities to be located in the park and this recommendation has been forwarded to the city council for consideration and approval;

2. In no case shall wireless facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are collocated on existing facilities; and

3. Before wireless facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated.

15.29.120 Application review process.

A. Preapplication Meeting. To expedite review of applications, a preapplication meeting with the administrator is strongly encouraged. The preapplication meeting will help the applicant determine what permits may be required for his or her proposed wireless facility, what additional information or studies may help in the review of the application, and what stealth and/or camouflaging techniques might be appropriate for the site. The administrator may help to identify protected areas and may also suggest vantage points from which a visual impact assessment should be based.

B. Review for Completeness. The administrator shall review each application for completeness as specified in YMC 15.29.050 and 47 CFR Sections 1.6003 and 1.6100. After review of the application, the administrator shall issue a determination of completeness or incompleteness in accordance with Chapter 16.04 YMC. In addition to information required for a complete application, the administrator may request additional information from the applicant to review the proposal and determine compliance with the provisions of this chapter. Except for ~~the stricter timelines specified in subsection C of this section for applications to modify an existing wireless facility or base station, or an application for small wireless facilities in the ROW~~ 47 CFR Section 1.6003, such administrative review, processing and issuance of administrative permits shall comply with the city's timelines and procedures governing review and issuance of administrative permits in ~~Chapter 16.04 YMC~~ Title 16.

C. Modification Permit Review. Applications for modifications to existing wireless facilities or base stations shall be reviewed as follows:

1. Determination of Major or Minor Modification. Within ~~forty-five~~twenty-eight days of receipt of a ~~complete~~an application for modification, the administrator shall review and issue a written determination as to whether the requested modification is deemed a major or minor modification under the provisions of YMC 15.29.060(A). The administrator may request additional information from the applicant or any other entity to assist in this determination.
2. Finding of No Substantial Change—Minor Modification. If the modification is deemed by the administrator to be a minor modification under the provisions of YMC 15.29.060(A), the administrator shall issue a modification permit, which may include conditions necessary to achieve compliance with the provisions of this section. Issuance of the minor modification permit approval shall occur within ~~forty-five~~sixty days after receipt ~~and approval of a complete~~an application for a modification permit.
3. Finding of Substantial Change—Major Modification. If the administrator determines that such application constitutes a substantial change to the physical dimensions of an existing wireless tower or base station, the administrator shall issue a written determination that the change is a major modification and direct the applicant to submit the appropriate application(s) as specified in Table 29-1 and YMC 15.29.050. Issuance of the major modification permit shall occur within ninety days after receipt of an application for a modification permit.

D. Small Wireless Review. Applications for small wireless facilities shall be reviewed as follows:

1. Determination of Review Period: Within twenty-eight days of receipt of an application for one or more small wireless facilities, the administrator shall review and issue a written determination regarding the review period for the small wireless application.
2. Review Period: If the small wireless application is deemed by the administrator to comply with the provisions of YMC 15.29.060 (G) and 15.29.070 (B), the administrator shall issue a decision, which may include conditions necessary to achieve compliance with the provisions of this section. After receipt of an application, issuance of the small wireless decision shall occur within sixty days to collocate a facility using an existing structure, within ninety days to deploy a facility using a new structure, and within ninety days to deploy two or more facilities with a mix of new and existing structures.
3. Small Wireless—Modification. A modification to an existing small wireless facility shall be reviewed the same as a collocation using an existing structure.

DE. Standard Wireless Permit Review. Standard wireless applications apply to all new wireless facilities and base stations and to major modification of all existing wireless facilities and base stations. Standard wireless applications shall be reviewed as follows:

1. Administrative Decision. All standard wireless applications shall be subject to administrative review and decision unless they require an associated wireless conditional use permit or variance as specified in Table 29-1 or Table 29-1.5.
2. Camouflaging/Stealth Review. Except for small wireless facilities, the administrator shall review the proposed method of camouflaging or stealth against conditions on or surrounding the site as follows:
 - a. The administrator shall consider how proposed design of the tower, placement on the site, topography of and surrounding the site, color, structures on and surrounding the site, and natural features on and surrounding the site help to blend the wireless facility into its setting.

- b. The administrator may require a visual impact assessment as described in YMC 15.29.130 based upon lines of sight or vantage points identified by the administrator.
- c. The administrator shall determine if the proposed camouflaging or stealth reasonably integrates the wireless facility into its setting. The administrator may impose conditions to ensure that the facility achieves this objective.

3. **Compliance with Standards.** The administrator shall review the proposal against all other standards of this chapter including, but not limited to, height, setbacks, color, design, lighting, landscaping, screening, and colocation capacity. If any items are found to be not in compliance, the administrator shall notify the applicant and direct him or her to either submit within two weeks, or other period of time deemed reasonable by the administrator considering the scope and complexity of the required revision, revised plans to address the compliance issue, or direct the administrator to render a decision on the application as submitted.

4. **Written Decision.** The administrator shall issue a written decision on the application within the time frame specified in Chapter 16.07 YMC, identifying any items not in compliance with this chapter, and including any conditions necessary to achieve compliance.

~~5. **Appeals.** The determination or decision of the administrator on any application under this chapter shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.~~

EE. Wireless Conditional Use Permit Review. Wireless conditional use permit applications shall be reviewed as follows:

1. **Submittal of Application.** An application for a conditional use permit under this chapter shall be submitted to the administrator, who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and YMC Title 16.
2. **Visual Impact Assessment.** The administrator shall instruct the applicant on the requirements for a visual impact assessment. The visual impact assessment shall be completed prior to the scheduled public hearing.
3. **Additional Reports and Third-Party Review.** The administrator shall have authority to request additional information and reports from the applicant necessary to facilitate analysis of the proposal, including but not limited to third-party review in accordance with YMC 15.29.140 and reports, surveys and tests as provided in this chapter, when the administrator, in his or her sole discretion, deems such additional information necessary or appropriate to fully assess the impact of the proposal and any reasonable alternatives, to address mitigation measures identified in SEPA, NEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety of persons, or quiet enjoyment of property, identified by the administrator as likely, with reasonable probability, to result from the proposed project.
4. **Scheduling for Hearing.** Upon the administrator's determination that the application is complete and in compliance with filing requirements of this chapter, and that required, visual impact assessments and other required reports have been finalized, the administrator in coordination with the hearing examiner shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of YMC Title 16.

5. Hearing Examiner—Procedures—Factors. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

FG. Wireless Height Variance Review. A wireless height variance shall be processed as follows:

1. Procedures and Applicable Criteria. A wireless height variance shall be reviewed under the procedures described in Chapter 15.21, except that the hearing examiner shall apply the criteria for review and approval defined in this chapter.
2. Visual Impact Assessment. The administrator shall instruct the applicant on the requirements for a visual impact assessment which shall be completed prior to the scheduled public hearing.
3. Third-Party Review. Applications for variance may also require third-party review as described in YMC 15.29.140.
4. Hearing Examiner Decision. The hearing examiner shall determine whether the proposed variance complies with the criteria for a variance in YMC 15.29.110, and that the proposed wireless facility complies with all other standards of this chapter. If the examiner finds that the proposal does not comply with the criteria for a variance he shall deny the variance and associated wireless facility. If the examiner finds that the proposal complies with the criteria for a variance and with all other development standards of this chapter, he shall approve the variance and the associated wireless facility. The examiner may impose any conditions necessary to ensure compliance with all standards. (Ord. 2016-029 § 1 (Exh. A) (part), 2016; Ord. 2013-051 § 2 (Exh. A) (part), 2013).

H. Appeals. The determination or decision of the administrator on any application under this chapter, excluding minor modifications, shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.

15.30.060 Land use overlays.

Zones described below are shown in the airport safety overlay zone (ASOZ) map with the types of land use review listed below in order to promote general safety and welfare of properties surrounding the airport and the continued viability of the airport.

Land Use Overlay 1 (Zone 1—Runway Protection Zone (RPZ)):

Only airport uses and activities are allowed within the runway protection zone.

Land Use Overlay 2 (Zones 2, 3, 4, and 4A—Inner Safety Zone, Inner Turning Zone, and Outer Safety Zone):

Class (1) Uses. Any Class (1) use listed in YMC 15.04.030, Table 4-1, Permitted Land Uses, unless otherwise mentioned in this section.

Class (2) Uses. Agricultural building; agricultural related business; animal husbandry; correction facilities; golf courses; campground; gymnasiums, exercise facilities; motels and hotels; canning, preserving, and packaging fruits, vegetables, and other foods; cement and concrete plants; concrete gypsum and plaster products; power generating facilities; utility services; residential infill (within 4A); mixed-use residential (within 4A); cluster development (within 4A).

Class (3) Uses. Agricultural market; junior or community college; business school; vocational school; bed and breakfast inn; communication towers; residential infill; mixed-use residential; cluster development.

Prohibited Uses. Schools (K—12), community centers, nursing home and group homes, day care facilities, hospital, new churches, shopping centers and other uses with similar concentrations of persons, rendering plants and slaughter houses. Other prohibited uses shall be: horse racing tracks, speedways; the production of asphalt paving and roofing materials; rock crushing; fuel storage facilities; storage or use of significant amounts of materials which are explosive, flammable, toxic, corrosive or otherwise exhibit hazardous characteristics; hazardous wildlife attractants including waste disposal operations, water management and stormwater facilities with aboveground water storage, and manmade wetlands.

Zone 4A shall exist as depicted on Figure 30-2 until such time that the airport's main runway (9/27) is extended as described in the Airport Master Plan. Any Class (2) development which occurs within zone 4A prior to the extension of the runway shall be required, as a precedent condition of approval, to record a deed declaration with the Yakima County auditor which specifically recognizes the preexistence of the airport and the right of aircraft over flight, as well as acknowledging and accepting all responsibility for exposure to noise, vibration, fumes, dust and fuel particulates, as may be inherent in the operation of aircraft. In addition to these conditions, all Class (2) development within zone 4A shall be subject to a recorded deed restriction providing the city with an absolute indemnification with regard to any adverse impacts resulting from or claimed to result from effects of aircraft over flight.

Land Use Overlay 3 (Zone 5—Sideline Safety Zone):

Uses within the sideline safety zone (Zone 5) may be permitted by the administrative official if the use is determined to be compatible with the zoning district and Appendix F of the Airports and Compatible Land Use Guidebook of the Washington State Department of Transportation Aviation Division.

Uses labeled as "Permitted" in Zone 5 within Appendix F of the Airports and Compatible Land Use Guidebook shall be considered a Class (1) use and undergo any Type (1) review unless a higher level of review is required per YMC 15.04.030, Table 4-1, Permitted Land Uses. Uses labeled as "Limited" or "Limited Special Conditions" in zone 5 within Appendix F of the Airports and Compatible Land Use Guidebook shall be considered a Class (2) use and undergo any Type (2) review unless a higher level of review is required per YMC 15.04.030, Table 4-1, Permitted Land Uses. All uses listed as "Prohibited" in zone 5 within Appendix F of the Airports and Compatible Land Use Guidebook ~~shall not be allowed~~ may be permitted as follows:

1. The use is permitted in the underlying zoning district, and;
 - a. For proposals within existing buildings: The use shall undergo Type (2) review unless a higher level of review is required per YMC 15.04.030, Table 4-1, Permitted Land Uses; or
 - b. For new construction: The use shall undergo Type (3) Review;
2. The use has been approved for that specific location by the airport director; and
- 4.3. Approval of a prohibited use shall be exclusive to that use alone and not extended to any future proposal for a different prohibited use. The allowance of a prohibited use in one location does not bind the City to allow the same or similar use prohibited use in another location.

Figure 30-2: Depiction of Zone 4A



Land Use Overlay 4 (Zone 6—Traffic Pattern Zone):

Class (1) Uses. Any Class (1) use listed in YMC 15.04.030, Table 4-1, Permitted Land Uses, unless otherwise mentioned in this section.

Class (2) Uses. Retirement home; churches, synagogues, temples; convalescent home, nursing home and group homes; day care facilities and centers; correction facilities; communication towers; chemicals (industrial, agricultural, wood, etc.); rendering plants and slaughter houses; power generating facilities.

Class (3) Uses. Amusement park.

Prohibited Uses. Schools (K—12), hospitals and other uses with similar concentrations of persons. Replacement or expansion of existing schools shall be allowed.

Any use not specified in the above paragraphs must undergo review and receive approval from the airport manager.

14.15.100 Approval of short subdivision—Recording.

Each final short plat approved by the administrator shall be filed for record in the office of the Yakima County auditor and shall not be deemed approved until so filed. The owner(s) of the land proposed to be subdivided shall be responsible for payment of all filing fees. A copy of the recorded plat shall be provided to the city prior to the issuance of any additional residential building permits.

14.20.230 Final plat—Recording.

All final plats approved by the administrator shall be filed for record immediately, or as soon as possible, by the subdivision applicant in the Yakima County auditor's office. The subdivision applicant shall be responsible for all filing fees. Any final plat filed for record containing a dedication shall be accompanied by a current title report. A copy of the recorded plat shall be provided to the city prior to the issuance of any additional residential building permits.

Chapter 14.50 APPEALS

Sections:

- ~~14.50.010 Appeals of administrative official's decision.~~
- ~~14.50.020 Appeal of hearing examiner's decision.~~
- ~~14.50.030 City council action on appeal of hearing examiner's decision.~~
- ~~14.50.040 Appeal of city council's decision.~~
- ~~14.50.050 Effect of appeals.~~
- ~~14.50.060 Actions not appealable.~~

14.50.010 Appeal of administrative official's decision.

The procedures to appeal actions under Title 14, Title 15, Title 16, and Chapter 6.88 shall be found in YMC 16.08

~~A.— Appeal to the Hearing Examiner. Except as otherwise provided, any person or agency directly affected by any decision of the administrator may appeal that decision to the hearing examiner.~~

~~B.— Appeal. All appeals shall be filed within fourteen days following the mailing of the final decision by the administrator. Appeals shall be filed with the office of environmental planning.~~

~~C.— Appeals Shall Be in Writing. All appeals shall be in writing on forms provided by the office of environmental planning and shall be accompanied by the required fees. All appeals shall specifically cite the action being appealed, the error(s) or issue(s) to be considered, and explain why the action is not consistent with the provisions of the Yakima urban area comprehensive plan, Yakima urban area zoning ordinance, this title, or other provisions of law.~~

~~D.— Notice. The office of environmental planning shall set a reasonable time and place for hearing of the appeal and shall notify all parties of record at least ten days prior to the hearing.~~

~~E.— Transfer of Record. The planning manager shall transmit to the hearing examiner true copies of all records pertaining to the proposed decision being appealed, together with any additional written report as determined to be pertinent.~~

~~F.— Action by the Hearing Examiner. The scope of the open record hearing on the appeal shall be limited to issues raised in the appeal application. The hearing examiner shall render a written decision on the appeal within ten working days from the conclusion of the hearing unless the subdivision applicant and the examiner mutually agree to a longer period. The hearing examiner may affirm or reverse wholly or in part or modify the order, requirement, decision, or determination and to that end shall have all the powers of the officer from whom the appeal is taken. The department shall send copies of the hearing examiner's decision to the appellant and parties of record not later than three working days following the issuance of the final decision. (Ord. 2011-08 § 1 (part), 2011: Ord. 98-65 § 2 (part), 1998. Formerly 14.15.120).~~

14.50.020 Appeal of hearing examiner's decision.

~~A.— Appeals. The hearing examiner's decision on the appeal shall be final and conclusive unless it is appealed to the city council by a person or agency affected by the decision in the following manner:~~

1. ~~The appealing party must file a complete written notice of appeal with the office of environmental planning upon forms provided by the department and accompanied by the appeal fee within fourteen days from the date of mailing of the examiner's final decision.~~
2. ~~The notice of appeal shall specify the claimed error(s) and issue(s) on appeal and shall specifically state all grounds for such appeal. Issues or grounds of appeal which are not so identified need not be considered.~~

B. ~~Appeal Procedures.~~

1. ~~The office of environmental planning shall notify parties of record that an appeal has been filed and that copies of the notice of appeal and any written argument or memorandum of authorities accompanying the notice of appeal may be obtained from the office of environmental planning. The notice to parties of record shall also state that parties of record wishing to respond to the appeal may submit written argument or memoranda to the legislative body within fourteen days from the date the notice is mailed and shall further specify that such written argument or memorandum shall not include the presentation of new evidence and shall be based only on the record before the hearing examiner. A copy of the notice shall be sent to the appellant.~~
2. ~~The appellant or any party of record may submit a written argument or memorandum of authority within fourteen days of the date of mailing of the notice to parties. Such written argument or memorandum of authorities shall be filed with the office of environmental planning. No written argument or memorandum of authorities may be thereafter submitted except as follows. The appellant or parties of record may request, in writing, and the department may, at its discretion and for cause, grant, without prior notice to other parties of record, a fifteen-day extension of time within which written argument or memoranda must be submitted; provided, that the request for extension is made no later than the last date the memorandum would otherwise be due. The legislative body may grant further extensions for good cause shown on a finding by the legislative body of the existence of circumstances which warrant such extensions. Notice of an extension shall be given to all parties of record. Memoranda, written argument or comments shall not include the presentation of any new evidence and shall be based only on the record before the hearing examiner.~~
3. ~~When a timely appeal has been filed and the deadline for receipt of written memoranda has passed, the office of environmental planning shall within five days deliver to the city council a copy of the examiner's decision, the record developed before the examiner, an audio recording of the hearing before the hearing examiner, and any written argument or memorandum of authority which has been received. (Ord. 2011-08 § 1 (part), 2011: Ord. 98-65 § 2 (part), 1998. Formerly 14.15.130).~~

14.50.030 City council action on appeal of hearing examiner's decision.

- A. ~~General. When the record and the hearing examiner's decision have been transmitted to the city council, the clerk of the city council shall schedule a date for a meeting of the city council at which time the city council shall consider the record upon which the hearing examiner's decision was based and the written and oral arguments of the appellant and other parties of record regarding whether the hearing examiner's decision was supported by substantial evidence. The date of the public meeting should not be later than twenty days following the date the city council receives the record from the office of environmental planning.~~
- B. ~~Public Notice Meeting on Appeals. The clerk of the city council shall, by first class mail, notify all parties of record of the date of the closed record public hearing on the appeal.~~

~~C.— Site Views. The city council may view the site.~~

~~D.— Scope of Review. City council review of the facts shall be limited to the record before the hearing examiner. The city council may request additional information or memoranda in order to reach a decision; provided, that all parties of record are given an opportunity to respond to any new material provided.~~

~~E.— Action on Appeal. At the closed record public hearing the city council may adopt, amend and adopt, reject, reverse, amend and reverse the hearing examiner's findings, conclusions, and decision, or the city council may remand the matter for further consideration or for purpose of taking and considering new factual evidence by the examiner. If the city council renders a decision different from the decision of the hearing examiner, the city council shall adopt amended findings and conclusions accordingly. (Ord. 2011-08 § 1 (part), 2011: Ord. 98-65 § 2 (part), 1998. Formerly 14.15.140).~~

~~14.50.040 Appeal of city council's decision.~~

~~The action of the city council on an appeal of the decision of the hearing examiner shall be final and conclusive unless within twenty-one days from the date of final action an aggrieved party obtains an appropriate writ of judicial review from the Yakima County superior court for the purpose of review of the action taken. The appellant shall provide or pay for in advance the cost of preparing any verbatim transcript of proceedings required for judicial appeal. With the consent of the superior court, the parties may agree to provide a verbatim audio record of proceedings for purposes of review by the superior court. (Ord. 2011-08 § 1 (part), 2011: Ord. 98-65 § 2 (part), 1998. Formerly 14.15.150).~~

~~14.50.050 Effect of appeals.~~

~~No subdivision may be recorded while an appeal is pending. (Ord. 2011-08 § 1 (part), 2011: Ord. 98-65 § 2 (part), 1998. Formerly 14.15.160).~~

~~14.50.060 Actions not appealable.~~

~~A.— Generally. Only final actions or decisions of a reviewing or other official may be appealed under this chapter.~~

~~B.— Procedural Rulings. Interim procedural or other rulings during or as part of a review or decision-making process by a reviewing or other officer under this title are not appealable except as part of the final decision or action.~~

~~C.— Enforcement Actions. No enforcement action for violation of this title is appealable except as expressly provided in Chapter 14.40. No decision or action for issuance of a warning citation or criminal citation by the reviewing official or other proper legal authority is appealable under this chapter nor shall any appeal under this chapter be taken of any enforcement action commenced by any part in a court of law.~~

~~16.05.020 Contents of notice of application.~~

~~The notice of application shall comply with the notice requirements specified in YMC 16.05.010 and shall include:~~

~~A. The date of the application, the date of the notice of completion for the application, the date the notice of application is issued;~~

- B. A brief description of the proposed project action, including the project location and city file number;
- C. The location where the application and any studies can be reviewed, including the city website information;
- D. The date when the public comment period ends, which shall be the ~~fourteenth~~^{twentieth} day following the date of notice of application (except projects requiring a public hearing – comments can be submitted up to the hearing date and at the public hearing), and a statement of the right of any person to comment on the application and become a party of record for the application;
- E. The date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
- F. Any other information determined appropriate by the director.

16.05.030 Public comment on the notice of application.

All public comments on the notice of application must be received in the department of community development not later than five p.m. on the ~~fourteenth~~^{twentieth} day after the notice of application is issued. If the ~~fourteen~~^{twenty}-day public comment period ends on a weekend or holiday, it shall be automatically extended to the end of the next business day. Comments may be mailed, personally delivered or sent by facsimile. Comments should be as specific as possible. Any public comment received by the city of Yakima planning division requesting to become a party of record shall be added to the record and shall be entitled to receive any future notices and/or decisions associated with the application.