

ORDINANCE NO. 2024-035

AN ORDINANCE amending Yakima Municipal Code Titles 14, 15, and 16 to incorporate text amendments associated with appeals of land use decisions.

WHEREAS, the Planning Commission of the City of Yakima has considered amendments to modify YMC Titles 14, 15, and 16 to modify the appeals process to be more efficient; and

WHEREAS, notice of all amendments to these Titles to fulfill the requirements of RCW 36.70A.130 was sent to the Washington State Department of Commerce and received by the same on August 12, 2024; and

WHEREAS, the Planning Commission held two study sessions for these amendments on April 24, 2024, and May 8, 2024; and

WHEREAS, the Planning Commission held an open record public hearing on September 11, 2024, 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 findings and recommendation dated September 25, 2024; and

WHEREAS, the City Council held a public hearing on November 19, 2024, 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 to modify the appeal process are 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 amendments to YMC Titles 14, 15 and 16, as contained in Exhibit "A" attached hereto and fully incorporated herein, shall replace and supersede previous versions of the referenced Yakima Municipal Code sections.

Section 2. Addition to YMC 15.02.020. The following definitions shall be added to YMC 15.02.020:

"Development Permit approval" means written authorization for development or modification of development as defined in this title. When a building or other construction permit is required, the building or construction permit shall serve as the other development permit. If no building or construction permit shall serve as the other development permit. If no building or construction permit is required, the zoning decision shall serve as the development permit.

“Development Permit denial” means written refusal for development or modification of development.

“Zoning decision” means a document issued by the Planning Division, Hearing Examiner, or City Council which serves as the City’s final determination of approval or denial of development or modification of development.

Section 3. **Adoption of Planning Commission Findings.** The findings within the September 25, 2024, 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 § 14.05.070, §15.23.020, and §16.10.095, and are incorporated herein by this reference as if fully set forth herein.

Section 4. **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.

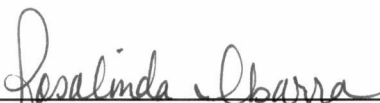
Section 5. **Ratification.** Any act consistent with the authority, and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. **Authorization to File.** The City Clerk is authorized and directed to file a certified copy of this ordinance with the Yakima County Auditor.

Section 7. **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 19th day of November 2024.

ATTEST:



Rosalinda Ibarra, City Clerk





Patricia Byers, Mayor

Publication Date: November 23, 2024

Effective Date: December 23, 2024

Exhibit “A”

14.20.270 Plat vacation—Criteria for approval.

A. Approval. The hearing examiner shall render the final decision on proposed plat vacations. The hearing examiner’s decision may be appealed using the procedures under Chapter 14.50.

B. Criteria for Approval. The proposed plat vacation may be approved or denied after a written determination is made whether the public use and interest will be served by the proposed vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not already deeded to the city, shall be deeded to the city unless the hearing examiner finds that the public use would not be served by retaining the public interest in such land.

C. Vacation of Streets or Other Public Rights-of-Way. When the vacation application specifically proposes vacation of a city street or other public right-of-way, the city’s street vacation procedures shall be utilized. When the application is for the vacation of a plat together with any street or other public right-of-way, the procedure for vacation in this section shall be used, but no street or other public right-of-way may be vacated contrary to the provisions of RCW Chapter 35.79 or the city’s street vacation ordinance.

D. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement holder, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

14.20.290 Plat alteration—Criteria for approval.

A. Approval. The hearing examiner shall render the final decision on proposed plat alterations. The hearing examiner’s decision may be appealed using the procedures under Chapter 14.50.

B. Criteria for Approval. The plat alteration may be approved or denied after a written determination is made whether the public use will be served by the alteration of the subdivision. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

C. Revised Plat. After approval of the alteration, the final amended plat will be prepared in accordance with the hearing examiner’s decision and submitted to the hearing examiner or administrator for signature, after which, it shall be filed with the county auditor to become the lawful plat of record.

15.20.040 Hearing examiner—Duties and powers.

A. Office. The office of the hearing examiner, herein referred to as hearing examiner, is hereby recognized. The hearing examiner shall perform the duties and functions established by

this or any other title. Unless the context requires otherwise, the term “hearing examiner” as used herein shall include deputy examiners and examiners pro tem.

B. Authorities and Duties. The examiner shall receive and examine available information, conduct public hearings and keep a record thereof, and enter decisions as provided for herein.

C. Effect of Decisions.

1. The decision of the hearing examiner on the following matters shall be final unless such decision is appealed pursuant to YMC 16.08.025:

- a. Type (3) review decisions;
- b. Variance requests;
- c. Interpretation requests;
- d. Unclassified home occupation decisions;
- e. Revocation proceedings under YMC Chapter 15.24;
- f. Nonconforming uses;
- g. Appeals of decision by the building official or administrative official; and
- h. Any other authorized decision not expressly listed in subsection (C)(1) of this section.

2. The decision of the hearing examiner on rezone applications shall constitute a recommendation to the legislative body; provided, that rezone applications initiated by the city to implement a newly adopted or amended comprehensive plan, or which are of broad general applicability, shall be heard by the city of Yakima planning commission.

15.13.070 Appeals.

Any decision by the administrative official to deny issuance of a permit for a Class (1) use may be appealed to the hearing examiner under the provisions of YMC 16.08. An approval with a condition of approval is not considered a denial for purposes of this Section.

15.15.070 Appeals.

Decisions of the hearing examiner under Type (3) review may be appealed in accordance with YMC Chapter 16.08.

15.20.060 Legislative body.

The legislative body shall have the following authority and duties:

1. Amend this title through the procedures outlined in YMC Chapter 15.23;
2. Amend the Yakima urban area comprehensive plan; and
3. Perform any other act or duty authorized by law.

15.21.080 Appeals

The hearing examiner's decision may be appealed in accordance with YMC Chapter 16.08.

15.27.423 Appeals.

The decision to grant, grant with conditions, or deny a flood hazard permit shall be final and conclusive unless the applicant appeals the decision pursuant to YMC Chapter 16.08.

15.29.100 Wireless condition use permit criteria.

A. Uses Requiring Wireless Conditional Use Permit. Any wireless facility listed in Table 29-1 as a wireless conditional use permit (wireless CUP) requires submittal of a wireless CUP application as described in YMC 15 29 050. Wireless CUPs require a public hearing before the hearing examiner and final approval by the hearing examiner.

B. Criteria for Granting Wireless Conditional Use Permit. Before any conditional use may be granted, the hearing examiner must find that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;
2. The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;
3. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
4. The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan; and
5. All reasonable and practicable measures have been taken to minimize the possible adverse impacts which the proposed use may have on the area in which it is located.

C. Authority to Impose Conditions. The hearing examiner may impose any conditions necessary to address identified impacts associated with the proposed wireless facility and ensure that the facility is compatible with surrounding development. The hearing examiner may:

1. Increase requirements in the standards, criteria or policies established by this title;
2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

3. Require structural features or equipment essential to serve the same purpose set forth above;

4. Impose conditions similar to those set forth in subsections (C)(2) and (3) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

5. Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which the use is proposed to be located; and

6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need.

D. Conditional Use Permit—Effect of Hearing Examiner Decision. The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the Yakima County Superior Court in accordance with YMC 16 08 040.

15.29.110 Wireless height variance.

A. Applicability. A wireless height variance is required for any major modification to an existing tower, antenna, or base station or construction of a new tower, antenna, or base station that requires a height in excess of height limits defined in YMC 15 29 070(A)(2).

B. Variance from Other Standards. A major modification to an existing tower, antenna, or base station or construction of a new tower, antenna, or base station that requires variance from design criteria in YMC 15.29.070 other than height shall follow the standard variance procedures in Chapter 15.21 YMC (including review criteria).

C. Criteria for Granting Wireless Height Variance. The hearing examiner shall have the authority to grant a variance from the maximum height allowed for a tower, antenna or base station when, in his/her opinion, the conditions as set forth herein have been found to exist. A wireless height variance is subject to:

1. Compliance with standard wireless permit standards of YMC 15.29.120(D);
2. Standard variance procedures in Chapter 15.21 YMC (not including review criteria); and
3. All of the following criteria must be met:
 - a. The additional height is necessary to provide adequate service and no other alternative is available;

- b. A significant portion of the tower and related facilities are screened by existing evergreen trees or existing structures;
- c. Strict application of current height limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven wireless need;
- d. The structure for which the variance is requested is in harmony with the general purpose and intent of this chapter;
- e. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
- f. Any visual impacts will be mitigated to the greatest extent possible using camouflage, stealth or screening as defined by this chapter;
- g. The location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and
- h. The variance is the minimum necessary to grant relief to the applicant.

D. Decision. Based upon the information provided by the applicant, the results of the visual impact analysis, and findings of compliance or noncompliance with the criteria set forth herein, the examiner may:

- 1. Approve an application for a variance, which may include additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions; or
- 2. Deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection C of this section.

E. Burden of Proof. The applicant has the burden of proving that the proposed wireless height variance meets all of the necessary criteria.

F. Wireless Height Variance—Effect of Hearing Examiner Decision. The decision of the hearing examiner on a wireless height variance shall be final and conclusive with right of appeal to the Yakima County Superior Court in accordance with YMC 16.08.040.

16.08.025 Appeal of the hearing examiner's decision.

The decision of the hearing examiner shall be final and conclusive unless appealed to the Yakima County Superior Court under YMC 16.08.040.



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

Item No. 8.C.
For Meeting of: November 19, 2024

ITEM TITLE: Public hearing and Ordinance to consider the Yakima Planning Commission's recommendation regarding text amendments to YMC Title 14 - Subdivisions, Title 15 - Yakima Urban Area Zoning Ordinance, and Title 16 - Administration of Development Permit Regulations

SUBMITTED BY: Trevor Martin, Planning Manager

SUMMARY EXPLANATION:

On September 11, 2024, the Yakima Planning Commission conducted an open record public hearing regarding the proposed text amendments to YMC Title 14 (Subdivisions), Title 15 (Yakima Urban Area Zoning Ordinance) and Title 16 (Administration of Development Permit Regulations). No comments were received during the open record public hearing. On September 25, 2024, the chair signed the findings.

The complete record was distributed to City Council in the agenda packet on November 4, 2024, and can be found online at: <https://www.yakimawa.gov/council/agendas-and-minutes/>

ITEM BUDGETED: N/A

STRATEGIC PRIORITY 24-25: A Resilient Yakima

RECOMMENDATION: Pass Ordinance.

ATTACHMENTS:

ORDINANCE

REDLINE_Title 14_15_16 appeals